



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 9, 2017
MAHS Docket No.: 17-003810
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on ██████████, from Detroit, Michigan. Petitioner appeared and was unrepresented. ██████████, Petitioner's girlfriend, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, manager, and ██████████, specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FAP and MA benefit recipient.
2. On ██████████, MDHHS requested verification of Petitioner's recently stopped income with an employer (hereinafter "Employer#1") and verification of recently started income with an employer (Employer#2).

3. On [REDACTED], MDHHS requested proof of recently stopped income with a third employer (hereinafter (Employer#3) and verification of a checking account.
4. Petitioner failed to verify any of the incomes or assets.
5. On an unspecified date, the Internal Revenue Service reported to MDHHS that Petitioner's income was [REDACTED]/year.
6. On [REDACTED], MDHHS terminated Petitioner's FAP eligibility, effective [REDACTED], due to a failure to verify employment income and/or assets.
7. On [REDACTED], MDHHS terminated Petitioner's MA eligibility, effective [REDACTED] due to excess income.
8. On March 17, 2017, Petitioner requested a hearing to dispute the terminations of FAP and MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FAP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5-8) dated [REDACTED]. The notice informed Petitioner of a FAP termination beginning [REDACTED]. The stated reason for termination was a failure to verify employment income and a checking account balance.

Assets must be considered in determining eligibility for... FAP. BEM 400 (January 2017), p. 1. [MDHHS is to] verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 58. [The FAP asset limit is] \$5,000 or less. *Id.*, p. 5

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2016), p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date... *Id.*, p. 3. At redetermination, FAP clients have until the last day of the redetermination month or 10 days, whichever is later, to provide verification; see BAM 210. *Id.*, p. 8.

It was not disputed that Petitioner held 2 jobs in [REDACTED]. It was not disputed that Petitioner reported a change of employment income to MDHHS in [REDACTED], as part of a benefit redetermination. It was not disputed that Petitioner reported to MDHHS in [REDACTED] stopped employment with Employer#1 and new employment (with Employer #2).

MDHHS presented a Verification Checklist (Exhibit 1, pp. 43-44) dated [REDACTED]. The VCL requested proof of Petitioner's wages. MDHHS testimony indicated the VCL was mailed with Verifications of Employment (see Exhibit 1, pp. 49-52) which listed the name of two of Respondent's employers (Employer#1 and Employer#2). The due date to return verifications was [REDACTED].

MDHHS presented a Verification Checklist (Exhibit 1, pp. 45-46) dated January 25, 2017. The VCL requested proof of Petitioner's income and checking account balance. MDHHS testimony indicated the VCL was mailed with a Verification of Employment (see Exhibit 1, pp. 47-48) which listed the name of another employer (Employer #3), and a Verification of Assets (Exhibit 1, pp. 53-54) which listed Petitioner's bank. The due date for verifications was February 6, 2017.

MDHHS alleged Petitioner failed to return verification of assets and all verifications of employment income. The participating MDHHS office did not have a computer in the hearing room. During the hearing, MDHHS was asked to check Petitioner's electronic-case file to corroborate the MDHHS testimony. MDHHS testified Petitioner's ECF listed only showed Petitioner submitted multiple documents on January 14, 2017. The documents included the following: an application (presumably to serve as a Redetermination), documents concerning changes in housing, identification, and one check from Petitioner's new employer. MDHHS testified that Petitioner's ECF indicated no other submissions from January 2017 or February 2017.

Petitioner initially testified he returned every requested item to MDHHS in mid-[REDACTED]. Petitioner's testimony was curious because MDHHS had not even asked for some of the item until later [REDACTED]. Petitioner later testified he returned all items to MDHHS within 10 after receiving the VCLs. Petitioner testified he returned all documents in a single envelope. Petitioner testified he went to a USPS in Saline and his girlfriend paid cash for the postage. Petitioner testified he had no verification of his mailing.

Petitioner testified that he did not receive one of the VCLs but learned of the request after a phone call with his specialist. Petitioner also testified that he informed his specialist that 2 of the 3 employment verifications could be obtained through TheWorkNumber.com. Petitioner testified he verified income from Employer#3 with a pay stub and a letter. Petitioner testified he returned some sort of tax statement from his bank to verify his checking account information.

Petitioner's testimony, by itself, was credible enough, but it was not verified. The MDHHS testimony that Petitioner did not return the requested documents was also

credible enough, but was at least corroborated by statements concerning Petitioner's ECF. It is possible that MDHHS lost Petitioner's documents before they could be scanned into his ECF or that MDHHS' testimony concerning Petitioner's ECF was inaccurate, however, such scenarios are unlikely.

Based on presented evidence, it is found that Petitioner failed to verify assets and employment income. Accordingly, a termination of FAP benefits was proper. The analysis will proceed to consider Petitioner's MA dispute.

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

During the hearing, Petitioner's circumstances were discussed. There was no evidence that Petitioner was eligible for Medicaid through any program other than HMP.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing to dispute a determination of MA benefits. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 11-14) dated [REDACTED]. The notice informed Petitioner of a termination of Medicaid, effective [REDACTED] due to excessive income. Petitioner's stated income was [REDACTED].

Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. MAGIM ([REDACTED]), p. 14. It is based on federal tax rules for determining adjusted gross income. *Id.* It eliminates asset tests and special deductions or disregards. *Id.* Every individual is evaluated for eligibility based on MAGI rules. *Id.*

If the group's attested income is below the income threshold for the program being tested but the trusted data source indicates income above the income threshold, then reasonable compatibility test is performed:

- If income is reasonable compatible, then the applicant is eligible
- If the income is not reasonable compatible, then the program pends and the individual is required to provide proof of attested income.

Id., p. 15.

Income that is “reasonable compatible” is not defined by federal regulations. Federal regulations provide guidance on what is not “reasonable compatible” income. Attested income will be found not reasonably compatible with income from trusted sources if the difference exceeds 10%. *Id.*, p. 15.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The federal poverty level is ██████ for a one-person group. To be income-eligible for HMP benefits, Petitioner’s income would have to fall at or below ██████.

MDHHS presented a copy of Petitioner’s income from their “trusted data source” (Exhibit 1, p. 16). The document indicated Petitioner received monthly wages from two unspecified employers. The stated monthly wages from each employer were ██████ and ██████. Presumably, MDHHS combined the income to determine Petitioner’s gross monthly wages, and then multiplied the monthly wage by 12 to convert the income to an annual wage of ██████. The method of calculation appears to be proper.

Petitioner’s income, based on trusted data sources, exceeds HMP income limits by more than 10%. Thus, the income is not reasonably compatible with HMP’s income limits.

Once MDHHS determined Petitioner’s income to exceed program limits, it would be proper for MDHHS to reconsider eligibility based on any returned income verification from Petitioner. In the analysis of FAP benefits, it was determined that Petitioner failed to verify income. Thus, MDHHS was unable to consider Petitioner’s HMP eligibility based on any other alternative verification of income.

It is found that MDHHS properly determined Petitioner had excess income for HMP eligibility. Accordingly, it is found that MDHHS properly terminated Petitioner’s MA eligibility. Petitioner should be advised that neither finding upholding the FAP and MA terminations precludes Petitioner from reapplying for either program.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner’s FAP eligibility, effective March 2017, and MA eligibility, effective ██████. The actions taken by MDHHS are

AFFIRMED.

CG/hw



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]