



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 20, 2017

MAHS Docket No.: [REDACTED]

17-006139

Agency No.: [REDACTED]

Petitioner: [REDACTED]

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 [REDACTED], from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUES

The first issue is whether Petitioner is entitled to administrative relief for a hypothetical denial of Family Independence Program (FIP) benefits.

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

The third issue is whether MDHHS properly determined Petitioner's spouse's employment income in determining Petitioner's FAP 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 recipient.
2. Petitioner was an ongoing member of a household which included an employed spouse.

3. On [REDACTED], MDHHS mailed a Redetermination.
4. Petitioner's FAP eligibility was scheduled to expire in [REDACTED]
5. Petitioner timely submitted a Redetermination to MDHHS which listed a checking account.
6. With his Redetermination, Petitioner submitted copies of his spouse's biweekly pays from [REDACTED]
7. Petitioner also submitted a Verification of Employment for his spouse which stated she worked [REDACTED] hours/week for an hourly wage of [REDACTED]
8. On [REDACTED], MDHHS mailed Petitioner a Verification Checklist (VCL) requesting, in part, a checking account statement.
9. As of [REDACTED], Petitioner had not yet submitted to MDHHS verification of a checking account.
10. On [REDACTED], Petitioner submitted a checking account statement to MDHHS.
11. On [REDACTED], MDHHS determined Petitioner was eligible for FAP benefits, effective [REDACTED], in part, based on employment income of [REDACTED]
12. On an unspecified date, MDHHS verbally advised Petitioner that he would not be eligible to receive FIP benefits.
13. On [REDACTED], Petitioner requested a hearing to dispute pro-rated FAP eligibility for [REDACTED] budgeted employment income of [REDACTED], and hypothetical eligibility for FIP.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. 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, concerning FIP eligibility. During the hearing, Petitioner testified he was neither a recent recipient nor applicant of FIP. Petitioner testimony indicated he wanted to apply for FIP benefits, but was discouraged because MDHHS staff told him that he would not be approved due to exceeding the program's

lifetime limits. Petitioner testimony indicated that he sought an administrative decision concerning whether MDHHS gave him proper information.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600 (October 2016), p. 1. [MDHHS...] provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. *Id.* MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

Id.

Had Petitioner applied for FIP benefits and been denied, Petitioner would be justified in requesting a hearing to dispute the denial. Petitioner is not entitled to request a hearing to dispute a denial of FIP benefits that never occurred. Petitioner's hearing request will be dismissed concerning FIP benefits. The analysis will proceed to consider Petitioner's disputes of FAP eligibility.

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 "back payment" of FAP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 38-42) dated [REDACTED]. The notice informed Petitioner of FAP eligibility beginning [REDACTED]. Petitioner's testimony clarified that "back payment" was a reference to his partial FAP eligibility for [REDACTED]. An analysis requires a consideration of undisputed events.

Petitioner was an ongoing FAP recipient whose eligibility period extended through [REDACTED]. As part of the redetermination process, Petitioner submitted to MDHHS a Redetermination (see Exhibit 1, pp. 5-12). Petitioner's Redetermination reported a bank account for his spouse (see Exhibit 1, p. 8). In response, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting various items, including Petitioner's spouse's checking account. A due date of [REDACTED], was stated on the VCL. Petitioner did not dispute that he did not provide MDHHS with verification of the checking account [REDACTED].

For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due.

BAM 210 (January 2017), p. 7. [For FAP benefits,] the redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.*, p. 3. [For FAP eligibility,] benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.*, p. 3.

Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. *Id.*, p. 16. The DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. *Id.*

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. *Id.*, p. 20. [MDHHS is to] proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client completed the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered

Id.

Presented evidence verified that MDHHS properly redetermined Petitioner's FAP eligibility beginning [REDACTED] (Petitioner's date of verification compliance). Thus, it is found that MDHHS properly pro-rated Petitioner's FAP eligibility for [REDACTED]. Petitioner's final dispute concerned the amount of employment income budgeted for his spouse.

MDHHS presented Petitioner's FAP budget (Exhibit 1, pp. 45-46). The budget listed employment income of [REDACTED]

MDHHS could not state with certainty how MDHHS calculated Petitioner's spouse's employment income. Presented evidence was indicative that the calculation was based on information listed on a Verification of Employment for Petitioner's spouse. MDHHS appeared to multiply Petitioner's spouse's hourly wage ([REDACTED]) by an average of weekly hours (24) favorable to Petitioner.

It was not disputed that Petitioner submitted his spouse's pay stubs as part of the redetermination process. The pay stubs were dated [REDACTED] and [REDACTED]. It was not disputed that MDHHS disregarded the pay stubs when calculating Petitioner's spouse's income. Petitioner testimony implied that it was erroneous for MDHHS to disregard his spouse's pay history.

[For non-child support income, MDHHS is to] use past income to prospect income for the future unless changes are expected. BEM 505 (July 2016), p. 6. [MDHHS is to] Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* The 30-day period used can begin up to 30 days

before the interview date or the date the information was requested. *Id.* [MDHHS is to] use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate... *Id.*

For starting income, [MDHHS is to] use the best available information to prospect income for the benefit month. *Id.*, p. 8. This may be based on expected work hours times the rate of pay. *Id.*

MDHHS testimony alleged presented pay stubs were rejected because they were too old. The MDHHS allegation is erroneous as the presented pay stubs reflect the pays closest in time to [REDACTED] (the mailing date of Petitioner's Redetermination, and therefore, the request date of verifications).

It is not known why MDHHS preferred projecting Petitioner's pay spouse's income using a pay rate and projected hours. The preference is atypical, though not necessarily improper. It is appropriate to defer to MDHHS' choices when the choices are compliant with policy. MDHHS' choice to calculate Petitioner's spouse's income based on projected hours and wage is a decision for which deference is appropriate.


It is found that MDHHS properly determined Petitioner's spouse's income. As discussed during the hearing, Petitioner is free to report and/or submit verification of any changes to his spouse's income to affect future FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner is not entitled to administrative relief of a FIP application that was not submitted. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly processed Petitioner's FAP eligibility for [REDACTED]. 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]

Petitioner

[REDACTED]