



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.: 17-007460
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 42 CFR 438.400 to 438.424; 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 July 12, 2017, from Detroit, Michigan. The Petitioner was represented by himself. [REDACTED] a [REDACTED] translator also appeared to translate for Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's Food Assistance application?

Did the Department properly deny Petitioner's Medical Assistance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In his Hearing Request dated May 30, 2017, the Petitioner requested that his Medical Assistance be reinstated. At the hearing it was determined that the Petitioner's medical assistance for Petitioner, his wife and [REDACTED] had been reinstated. The Petitioner's [REDACTED] has his own medical assistance case because of his age. Based on this evidence and information, there is no remaining issue to be resolved by the undersigned regarding the Petitioner's hearing request regarding Medical Assistance.

2. The Petitioner applied for Food Assistance (FAP) benefits on May 7, 2017.
3. On May 7, 2017, the Department issued a Notice of Case Action and denied the Petitioner's application effective July 1, 2017, due to the FAP groups' net income exceeding the net income limit. Exhibit A
4. The Department determined that Petitioner's FAP group had [REDACTED] members, and did not include any housing expenses or utility allowance. The Department found the earned income to be [REDACTED] and used an earned income deduction of [REDACTED]. Exhibit A and Exhibit B.
5. The Petitioner provided pay stubs for himself for the employer [REDACTED], for pay date April 14, 2017, in the gross amount of [REDACTED], and March 17, 2017 in the gross amount of [REDACTED]. The Petitioner is paid bi-weekly. Exhibit C.
6. The Petitioner's son, a FAP group member, also has employment income and pay stubs were provided for [REDACTED] for pay date March 7, 2017 for a gross amount of [REDACTED] and March 21, 2017 in the gross amount of [REDACTED]. The Petitioner's son is also paid bi-weekly. Exhibit C
7. The Department did not include any housing expense for Petitioner, except a telephone allowance. Exhibit B. The Petitioner has housing expenses for property taxes and homeowner's insurance. In addition, the Petitioner pays for heat and electricity. The Department presented no evidence that it sought verification of housing expenses or utilities. The Petitioner was unaware that he should submit these expenses.
8. The Petitioner requested a timely hearing on May 30, 2017 protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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. The Department (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.

The 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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the evidence presented demonstrated that the Department did not seek verification of housing expenses from Petitioner at the time of the application. The Petitioner credibly testified that at the time of the interview the Department did not inquire of him regarding his housing expenses, did not inform him he could provide housing expenses and did not seek verification of housing expenses. BAM 115, (July 1, 2017) p.18 The Department also did not inquire regarding whether Petitioner paid heat and electric utilities. At application, the Department must determine the client's expenses and current situation by adding all of the client's expenses such as rent, utilities, taxes and insurance, and request needed verification not brought to the interview. BAM 115. In this case, no evidence of any inquiry by the Department regarding housing expenses was presented and the Petitioner credibly testified that he was not informed of same. Thus, the Department did not comply with requirements of application processing and must re-register and process the May 7, 2017 application. At the hearing, the Petitioner credibly testified that he paid property taxes, homeowner's insurance and paid for heat and electricity. All of these expenses, when verified are eligible for a housing expense deduction when calculating the excess shelter expenses for FAP benefits. BEM 554, (January 2017) p. 13-14. The shelter expenses are to be verified at application which include verification of property taxes, insurance home repairs and utilities. BAM 130 (January 2017)

In addition, the Department did demonstrate that it properly calculated the FAP group income based upon the pay stubs provided by Petitioner. Exhibit C. The Department calculated the FAP group earned income to be [REDACTED]. Exhibits A and B. The income calculation was reviewed at the hearing and the gross income and post earned income deduction amount as determined by the Department is correct.

The Petitioner provided pay stubs for himself for the employer, [REDACTED], for pay date April 14, 2017 in the gross amount of [REDACTED], and March 17, 2017 in the gross amount of [REDACTED]. The Petitioner is paid bi-weekly. Exhibit C. The Petitioner's son also has employment income and pay stubs were provided for [REDACTED] for pay date March 7, 2017, for a gross amount of [REDACTED], and March 21, 2017 in the gross amount of \$ [REDACTED]. The Petitioner's son is also paid bi-weekly. Exhibit C. The income is calculated as follows.

To compute Petitioner's gross income, the 2 pay stubs are added together and divided by 2 to get the average biweekly pay. (████████████████████). This average pay is then multiplied by 2.15 to get gross monthly pay which is ██████████ X 2.15 = ██████████. The 2.15 factor is applied as a conversion to take into account fluctuations due to the number of scheduled pays in a month. The next step required is to subtract a 20% earned income deduction which is 20% of the gross pay amount which in this case is ██████████. When the earned income deduction is subtracted the Petitioner's earned income is reduced to ██████████. See BEM 505, p. 8 and RFT 250.

The same process is used to determine the Petitioner's son's gross income. To compute gross income the 2 pays are added together and divided by 2 to get the average biweekly pay. (████████████████████ ÷ 2 = ██████████). This average pay is then multiplied by 2.15 to get gross monthly pay which is ██████████ X 2.15 = ██████████. The 2.15 factor is applied as a conversion to take into account fluctuations due to the number of scheduled pays in a month. The next step required is to subtract a 20% earned income deduction of ██████████, which reduces the earned income to ██████████.

Based upon the above calculation of earned income the Department's post earned income deduction income of ██████████ is correct. Exhibit C. Thus, the income as determined based upon the pay stubs provided by Petitioner is correct. However, because no housing expenses were sought or included the FAP budget must be recalculated to further determine eligibility.

It should be noted that the Petitioner's FAP group may not be determined eligible for FAP benefits after the Department recalculates the FAP eligibility due to the earned income amount. However, the Petitioner testified at the hearing that he was not currently working and thus his current income should be verified **before** the benefits are recalculated.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it processed the Petitioner's FAP application and did not verify any housing expenses.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department reinstated the Petitioner's Medical Assistance and that Petitioner has full coverage Medical Assistance, thus there remains nothing further to be decided by the undersigned.

DECISION AND ORDER

Accordingly, the Department's decision is,

REVERSED with respect to the Department's denial of Petitioner's FAP application; and

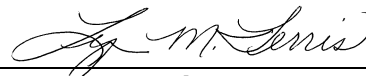
Accordingly, the Petitioner's Hearing Request regarding denial of his Medical Assistance is,

DISMISSED with respect to the Petitioner hearing request regarding Medical Assistance.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re-register and process the Petitioner's FAP application dated May 7, 2017 and shall seek verification of Petitioner's housing expenses and current earned income for Petitioner's FAP group.
2. The Department shall issue a FAP supplement, if Petitioner is otherwise eligible for one, in accordance with Department policy.
3. The Department shall provide Petitioner written notice of its determination of Petitioner's FAP eligibility.

LF/tm



Lynn M. Ferris
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]

[REDACTED]

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

CC:

[REDACTED]
[REDACTED]
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