



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 20, 2018  
MAHS Docket No.: 18-003645  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

**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. After due notice, a telephone hearing was held on June 13, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Nancy Fielding, Eligibility Specialist, and Melisa Johnstone, Family Independence Manager.

**ISSUE**

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

**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 Food Assistance Program (FAP) and Medical Assistance (MA) recipient when on February 23, 2018, the Department received his Redetermination (DHS-1010).
2. Petitioner's birthdate is [REDACTED] 1995, and was receiving Food Assistance Program (FAP) benefits as a group of one.
3. Petitioner reported on his February 23, 2018, Redetermination (DHS-1010) form that he does not have any income.
4. During a redetermination interview, Petitioner reported to the Department that he rides with a friend to return recyclables to raise enough money to survive.

5. On March 15, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting a statement from the person that gives him a ride by March 26, 2018.
6. On March 28, 2018, the Department received Petitioner's statement indicating that he does not receive anything from his friend, and that while he has returned recyclables in the past, that he has no ongoing source of income that is expected to continue.
7. On March 29, 2018, the Department notified Petitioner that he was no longer eligible for Food Assistance Program (FAP) benefits as of April 1, 2018.
8. On March 29, 2018, the Department notified Petitioner that he was no longer eligible for Medical Assistance (MA) benefits as of May 1, 2018.
9. On April 5, 2018, the Department received Petitioner's request for a hearing.

### **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 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.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level

when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

Petitioner was an ongoing FAP recipient when the Department conducted a routine redetermination interview. At the conclusion of this interview, the Department requested that Petitioner provide verification of how much income he receives from his friend. Petitioner returned a statement indicating that he does not receive any income from his friend and is not currently receiving any income.

Petitioner reported on his February 23, 2018, Redetermination form that he does not receive any income. The Department's witness testified that Petitioner told her that he receives income from a friend. Petitioner disputes that statement and testified that his statements made during the interview were misunderstood by the witness.

The Department is directed to send a negative action notice when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p 7.

No reliable evidence was available to verify exactly what Petitioner said during the interview. The hearing record does establish that the Department requested a statement from Petitioner's friend to verify how much income Petitioner receives from his friend. Petitioner provided a signed statement before his FAP benefits closed indicating that he does not receive anything from his friend and that he does not have any current income, which is consistent with the information on his February 23, 2018, Redetermination form.

Since Petitioner claims to have no income, and provided a statement before his FAP benefits closed indicating no income, this Administrative Law Judge finds that Petitioner made a reasonable attempt to provide the information necessary to determine his eligibility for FAP benefits. Petitioner claimed no income and provided a client statement supporting his claim. No evidence was presented on the record that Petitioner has any source of income, ongoing or in the past, other than an out-of-court statement offered for the purposes of establishing the truth of the matter asserted in that statement, which fits the definition of unreliable hearsay.

On March 29, 2018, the Department notified Petitioner that it would close his MA benefits for failure to verify a source of income. Petitioner claimed no income on his February 23, 2018, Redetermination (DHS-1010) form. The Department's witness testified that Petitioner made statements during an interview describing that he survives by returning recyclables.

The hearing record supports a finding that the type of income described in the Department's notes, if accurate, fits the policy definition of inconsequential income. Inconsequential income means income that is unpredictable, irregular, and has no effect on continuing need. Inconsequential income, including donations or gifts is not countable income for a MAGI Medicaid eligibility determination. Department of Health and Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017), p 9.

Further, Petitioner claims no income, but if he were found to have self-employment income countable towards his Modified Adjusted Gross Income (MAGI), appropriate verification of this income would be a Schedule C tax form and not a statement from a friend. See BEM 402.

This Administrative Law Judge finds that Petitioner is an individual age 19-64 not qualified for or enrolled in Medicare and that the Department failed to establish that Petitioner did not verify any income countable towards his Modified Adjusted Gross Income (MAGI).

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 closed Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefits.

### **DECISION AND ORDER**

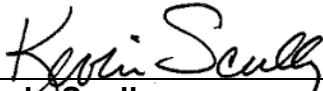
Accordingly, the Department's decision is REVERSED.

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:

Initiate a determination of Petitioner's eligibility for Food Assistance Program (FAP) as of April 1, 2018, and issue Petitioner any retroactive benefits he may be eligible to receive, if any.

Initiate a determination of Medical Assistance (MA) benefits as of May 1, 2018, and issue Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/hb

  
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**Kevin Scully**  
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) 763-0155; 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**

Denise Croff  
301 E. Louis Glick Hwy.  
Jackson, MI 49201

Jackson County, DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

