



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 20, 2018
MAHS Docket No.: 18-004758
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 14, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Lindsey Colon and Justin Motley, Regulation Agent.

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 receiving Medical Assistance (MA) under the AD-CARE category, and Food Assistance Program (FAP) benefits.
2. Based on an interview with Petitioner at his home on April 11, 2018, the Department determined that Petitioner operates a business from his residence. Exhibit A, pp 11-12.
3. On April 13, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of self-employment income by April 23, 2018. Exhibit A, pp 13-14.

4. On April 25, 2018, the Department received Petitioner's Self-Employment Income and Expense Statement (DHS-431), where Petitioner reported that he receives no self-employment income. Exhibit A, pp 15-16.
5. On April 26, 2018, the Department notified Petitioner that he was no longer eligible for Food Assistance Program (FAP) benefits as of June 1, 2018. Exhibit A, p 3.
6. On April 26, 2018, the Department notified Petitioner that he was no longer eligible for Medical Assistance (MA) as of June 1, 2018. Exhibit A, p. 4.
7. On May 7, 2018, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Exhibit A, p 2.

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 MA and FAP recipient when the Department determined that Petitioner received self-employment income from a business operated out of his residence. On April 13, 2018, the Department requested that Petitioner provide verification of his self-employment income by April 23, 2018.

On April 25, 2018, the Department received Petitioner's Self-Employment Income and Expense Statement (DHS-431), where Petitioner reported that he received no self-employment income. On April 26, 2018, the Department closed Petitioner's FAP and MA benefits as of June 1, 2018.

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be rein-stated for any of the following reasons:

- Closed in error.
- Closed-correct information not entered.
- Timely hearing request.
- Redetermination packet not logged in.
- Hearing decision ordered reinstatement.
- Complied with program requirements before negative action date.
- DHS-1046 manually sent and due date is after the last day of the 6th month.
- Court ordered reinstatement. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (January 1, 2018), p 1.

The Department requested verification of information necessary to accurately determine Petitioner's eligibility for FAP and MA benefits by April 23, 2018. Petitioner failed to return the requested information in a timely manner, but did report to the Department that he does not receive any self-employment income before his benefits closed. Since Petitioner complied with program requirements before the negative action date, reinstatement of Petitioner's benefits is a proper application of BAM 205.

The only evidence that Petitioner receives self-employment income is a verbal statement made by Petitioner to the Department's investigator. This statement is an out-of-court statement offered for the purposes of establishing the truth of the matter

asserted in that statement, and it fits the definition of unreliable hearsay. No objective evidence was offered to establish that Petitioner is the owner of a business or that he receives self-employment income.

The record evidence does not support a finding that Petitioner failed to provide the Department with sufficient information necessary to accurately determine his eligibility for FAP and MA benefits. The Department failed to establish that Petitioner receives self-employment income. 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 Medical Assistance (MA) and Food Assistance Program (FAP) benefits based on his response to the April 13, 2018, Verification Checklist (DHS-3503).

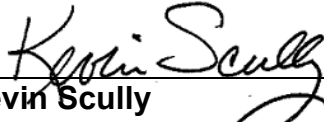
DECISION AND ORDER

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 the Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits as of June 1, 2018, and issue Petitioner any retroactive benefits may be eligible to receive, if any.

KS/hb



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

Melissa Brandt
920 East Lincoln St
Ionia, MI 48846

Ionia County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

