



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: August 27, 2018  
MAHS Docket No.: 18-007405  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

**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 August 21, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Renee Trudeau, Assistance Payments Supervisor.

Petitioner's Exhibits 1-22 and Respondent's Exhibits page 1-40 were admitted as evidence.

**ISSUE**

Did the Department properly cancel Petitioner's Medical Assistance (MA) and Food Assistance Program (FAP)?

**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 a FAP and MA benefit recipient.
2. On May 4, 2018, a redetermination was turned in timely.
3. On June 7, 2018, an interview was held.
4. Petitioner receives \$ [REDACTED] in monthly social security income.

5. Petitioner's mortgage alone is \$ [REDACTED] per month.
6. Petitioner indicated to the caseworker that a friend gives her money.
7. On June 7, 2018, the Department caseworker sent Petitioner a Verification checklist asking to provide verification of the additional income.
8. On June 15, 2018, Petitioner spoke with a supervisor and stated she did not claim to have this additional income.
9. Petitioner indicated that she sells or liquidates her personal belongings in order to make up the difference between her social security income and her bills.
10. The Department caseworker sent an e-mail to the FAP policy desk asking how to move forward on this case, as the Department received questionable Verification from Petitioner, and could not get a straight answer from Petitioner.
11. On June 26, 2018, the helpdesk replied, stating the Department has done everything possible to obtain accurate case information to budget the income.
12. On June 27, 2018, a second verification checklist was sent to Petitioner.
13. Petitioner submitted bank statements with various deposits but failed to hand in verification of the unearned income or additional income received.
14. On July 10, 2018, a notice of case action was sent to Petitioner indicating that her FAP benefits would be canceled and closed effective July 1, 2018, because verification of unearned income - payment verification was not returned.
15. On July 10, 2018, a healthcare coverage determination notice was sent to Petitioner indicating that Petitioner's Health Care coverage would close from August 1, 2018, ongoing because verification of unearned income - payment verification was not returned.
16. The negative action was not deleted because Petitioner's FAP certification period ended June 30, 2018.
17. On July 16, 2018, the Department received a request for hearing to contest the negative action.
18. On July 27, 2018, the Michigan Administrative Hearing System received a copy of the hearing summary and attached documents from the Department.
19. On August 21, 2018, the hearing was held.
20. Petitioner conceded on the record that all of her mortgage bills are paid and up to date.

## **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Petitioner argues that she closed her business about three years ago. Since that time her income has remained fixed and she has sold personal property and assets to make ends meet. She does not think she has to provide verification because this is just asset conversion. Also, sometimes a friend will put gas in her tank. Petitioner did have some receipts for some things she has sold at the hearing but had not provided the information to the Department before the hearing or during the verification request period.

Pertinent FAP policy indicates:

Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The Department follows the program reference manual, tables, charts, schedules, table 240-1.

Pertinent Department policy dictates:

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for 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.
- For FAP only, the current level of benefits or denial of expedited service.  
Department of Human Services Bridges Administrative Manual (BAM) 600  
(April 1, 2017), pp 3-4.

The petitioner or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

The Department must establish its case by a preponderance of the evidence on the record. A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. Document income budgeting on either a manually-calculated or an automated FAP worksheet. (BEM 550, page 1)

Per BEM 500 page 9, the Department is to consider an asset converted from one type to another (example: an item sold for cash) as an asset. Bridges excludes as income any gain or benefit in a form other than money. For example: meals, clothing, home energy, garden produce and shelter. It includes shelter provided by an employer instead of cash wages. BEM 500 page 10.

Income manual items identify certain income types that are excluded as assets as well as income. The conditions in BEM 400, Excluded Income Under BEM 500 must be met for the asset exclusion to apply. Funds cannot be counted as both income and as assets in the same month. Do not include funds entered as income in asset amounts entered in Bridges.

Inconsequential income means income that is unpredictable, irregular, and has no effect on continuing need. For example, occasional cash gifts. Do not enter inconsequential income in Bridges if the amount received during a calendar quarter is \$30 or less. Enter amounts in excess of \$30 per quarter using the appropriate LUW and income type. Note: Inconsequential income, including donations or gifts is not countable income for a MAGI Medicaid eligibility determination. BEM 500 page 10

Payment of an individual's bills by a third party directly to the supplier using the third party's money is not income to the individual. If the third party is paying the bill instead of paying money due the individual such as money owed for child support or owed on a loan, the payment is the individual's unearned income. Exceptions: Exclude any portion of a payment that a court order or other legally binding agreement requires sending directly to an individual's creditor or service supplier. BEM 500 page 12

Many verification sources are populated with Conversion as the initial value when an individual is converted from Legacy systems to Bridges. Conversion is an acceptable verification source until the case situation requires a new verification. This value cannot be selected by the user. Select Not Verified or Not Verified/Questionable as the verification source only when income that does not normally require verification (for example starting or increasing income) is unclear, inconsistent or questionable. This causes Bridges to generate a VCL for that income type. Select Other Acceptable when your verification source does not exactly match any of the specific sources listed in the verification drop down but verifies all needed elements by another means. BEM 500 page 16.

Pertinent Department policy dictates:

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

## **Medicaid**

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications. (BEM 130, page 8)

Petitioner's allegation that the Department is not acting with fairness is a compelling equitable argument to be excused from the Department's program policy requirements.

Equity powers are not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Health and Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

A review of Petitioner's case reveals that the Department was unable to budget the correct amount of income received by Petitioner at the time of redetermination. Petitioner's income requirements, deductions and shelter allotment are governed by FAP policy and cannot be changed by the Department or this Administrative Law Judge. Petitioner's allegations that she is just selling things (unspecified personal belongings) from her home or closed business for at least \$ [REDACTED] per month every month for the past three years is not credible. Receipt of more than \$ [REDACTED] in additional income per month is not inconsequential. Petitioner's explanation to the caseworker of where she got additional funds from to pay her bills was inconsistent. She did not provide receipts for the sale of her household items in a timely manner, as she only came up with the cancelled check information for the hearing. If Petitioner reapplies for benefits and provides the Department with information of how she acquires the income that she uses to meet her monthly bills or that Petitioner receives from third parties, the Department must reassess Petitioner's eligibility for FAP and MA benefits.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it cancelled Petitioner's FAP and MA benefits because Petitioner failed to provide income verification information. Petitioner has not established good cause for failure to return the information to the Department. The Department's case is established by a preponderance of the evidence presented and must be upheld.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

LL/bb



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**Landis Lain**  
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**

Renee Trudeau  
1401 Carpenter Ave.  
Iron Mountain, MI 49801

Dickinson County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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