



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 25, 2018
MAHS Docket No.: 18-009804
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 October 24, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Richkelle Curney.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) 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. On July 18, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting, among other things, verification of earned income received by Petitioner and his wife. The Department specifically requested copies of their W2 Wage and Tax Statement. Exhibit A, pp 7-8.
2. On July 30, 2018, the Department received a copy of a 2017 US Income Tax Return for an S Corporation Form 1120S. Exhibit A, p 3.
3. On September 12, 2018, the Department notified Petitioner that he is not eligible for Food Assistance Program (FAP) benefits as of September 1, 2018. Exhibit A, pp 9-10.

4. On August 13, 2018, the Department notified Petitioner that his children are eligible for Medical Assistance (MA) but that Petitioner and his wife are not eligible for Medical Assistance (MA) as of September 1, 2018. Exhibit A, pp 11-17.
5. On September 14, 2018, the Department received Petitioner's request for a hearing protesting the denial of his application for assistance. 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.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides child care in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2017), p 1.

On August 13, 2018, the Department notified Petitioner that FAP and MA benefits were being denied. The Department determined that Petitioner receives wages in the gross monthly amount of \$ [REDACTED] and his wife receives wages in the gross monthly amount of

§ [REDACTED] No evidence was presented on the record demonstrating how Petitioner's wages were determined.

However, even if Petitioner had no income, the Department determined that his wife received wages in the gross monthly amount of \$ [REDACTED] which by itself is 286% of the federal poverty level for a group of six and would make Petitioner and his wife ineligible for FAP benefits and MA benefits under the HMP category.

The source of income for both Petitioner and his wife is from [REDACTED], Inc., which appears to be registered as a S Corporation based on the copy of the tax forms entered into the hearing record. The Department properly identified income from an S Corporation as not meeting the definition of self-employment income as defined by BEM 502. Income from a S Corporation fits the Department's definition of "wages." Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (October 1, 2018), p 6.

However, even though the Department does not dispute that income from a S Corporation is not self-employment income, the Department still used the gross receipts from that S Corporation as the gross income of Petitioner and his wife in the same manner as if it were self-employment income.

On July 18, 2018, the Department requested that Petitioner and his wife provide copies of the W2 tax forms, which would verify their gross wages received from RGM Enterprise, Inc. No evidence was entered into the hearing record that the W2 forms were returned as requested, but the Department did not deny benefits based on Petitioner's failure to provide the Department with information necessary to determine his eligibility to receive benefits.

Department policy requires that wages held by the employer at the request of the employee are countable income, but wages held as a general practice by the employer are not income until actually paid. BEM 401, p 6. The hearing record supports a finding that for the 2017 tax year, RFM Enterprise Inc. paid a total of \$16,392 in compensation of its officers, salaries, and wages of employees. This is considerably less than the countable income the Department attributed to Petitioner and his wife. The remaining income received by the S Corporation is not countable income until actually paid out.

Based on the evidence and testimony available during the hearing, the Department has not properly determined Petitioner's countable gross earned income for the purposes of determining eligibility for FAP benefits, and has also not properly determined Petitioner's Modified Adjusted Gross Income (MAGI) for the purposes of determining Petitioner's eligibility for MA benefits.

Further, even if the MAGI for Petitioner and his wife makes them ineligible for MA benefits under HMP, the hearing record supports a finding that they have minor children in their household. The hearing record does not indicate that the Department properly determined Petitioner's eligibility for MA benefits as caretaker relatives as required by BEM 105.

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 denied Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits.

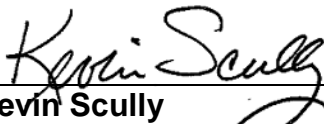
DECISION AND ORDER

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 the Petitioner's eligibility for the Food Assistance Program (FAP) and Medical Assistance (MA) as of September 1, 2018, and issue Petitioner any retroactive benefits he 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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]