



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: July 10, 2018
MAHS Docket No.: 18-005635
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 July 3, 2018, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services (Department or Respondent) was represented by Christine Brown, Eligibility Specialist.

Respondent's Exhibits 1-18 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's 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. Petitioner was in FAP benefit recipient.
2. Petitioner's a FAP case was scheduled for redetermination.
3. On May 15, 2018, the Department sent Petitioner a DHS – 3503 verification checklist, and an in-person interview was completed that same day because customer applied for other programs.

4. The Department requested the following: verification of checking account, donation or contribution from an individual outside the group, stocks, bonds or mutual funds and home/building.
5. The checklist was sent by Bridges Central Print with a due date of May 25, 2018.
6. On June 29, 2018, Bridges Central Print sent Petitioner a DHS - 1605 notice of case action indicating that Petitioner's FAP case would be close effective June 1, 2018, because unearned income donation payment verification was not returned for Petitioner and failure to provide verification information about the property in Florida was not provided.
7. On May 30, 2018, Petitioner filed a request for hearing with the Respondent.
8. On June 13, 2018, the Michigan Administrative Hearing System received the request for hearing along with the hearing summary and attached documents.
9. On July 3, 2018, the hearing was held.

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 Department must establish its case by a preponderance of the evidence. 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).

Pertinent Department policy dictates:

BAM 130 states:

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

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, page 7)

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

Use documents, collateral contacts or home calls to verify information. A document is a written form of verification. It may include a photocopy, facsimile or email copy if the source is identifiable.

Permanent documents must be obtained only once, unless they are found to be missing from the case record. Examples: birth certificate, passports, divorce papers, death notice. Copies of these documents should remain in the case record. Nonpermanent documents must be current.

If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. (BAM 130, page 3)

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.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. (BAM 130, page 9)

The Department Representative stated that Petitioner produced all documentation, except a letter or verification from Petitioner's son indicating how much income he was providing to Petitioner. During an in-person interview Petitioner stated that his son was giving him \$500.00 per month in March of 2018 but has reduced the amount to \$200.00 per month. Petitioner alleges that he no longer owns property in Florida as he has quitclaimed the property to his wife. Verification was requested for the changed circumstances. Petitioner did not provide the verification. The Department determined that Petitioner has excess assets for State Disability Assistance and denied his application for State Disability Assistance and canceled Petitioner's FAP benefits because the Fair Market Value of the home in Florida is \$225,000.00. Petitioner alleges that he lives with his son but prepares and purchases food separately.

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 determined that Petitioner failed to provide verification information for redetermination purposes. The Department has established its case by a preponderance of the evidence. Petitioner was given a reasonable opportunity to provide the documentation.

DECISION AND ORDER

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 acted in accordance with Department policy when it cancelled Petitioner's Food Assistance Program when Petitioner failed to provide requested redetermination documentation and failed to attend the telephone appointment.

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

LL/bb



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

Randa Chenault
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED], MI [REDACTED]