



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: August 1, 2018
MAHS Docket No.: 18-006697
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 31, 2018, from Lansing, Michigan. The Petitioner appeared and testified. [REDACTED] appeared as a witness. Latasha Robinson, ES Specialist represented the Department of Health and Human Services (Department). Karina Littles, ES Supervisor appeared as a witness.

ISSUE

Did the Department properly deny Petitioner's FAP and MA application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was a FAP and MA recipient.
2. On June 15, 2018 Petitioner submitted a new hire verification indicating that he began working full time at \$13.50 per hour.
3. On June 18, 2018 the Respondent issued notices closing FAP and MA effective July 1, 2018 on the grounds of excess income.
4. On July 2, 2018 Petitioner filed a hearing request.

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 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.

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.

Applicable Department policy to the case here is found primarily at BEM 550, 554 and 556.

In eligibility determinations for welfare benefits, the applicant has the burden of proof.

In this case, the Respondent's evidence indicates that Petitioner's income excess that cap for eligibility for FAP and MA. Petitioner does not dispute the calculations or amounts. Rather, Petitioner argues that he separated from employment on June 29, 2018. Petitioner also argues that he received less pay than the pay represented on the verification of income form as he was initially in training.

Based on the record established in the matter and the applicable law, this ALJ has no authority to take into account evidence that was not in existence at the time the Respondent took its actions. Thus, the fact that Petitioner subsequently separated from employment is not a relevant fact to the issue here.

As to the verification of income form, a review of the evidence at the time of the action indicates that Petitioner's verification of income reported full time work at \$13.50 per hour, and that he was working at \$13.50. The form also referenced that Petitioner was in training, and yet, did not indicate that his wages in training were not the \$15.50 per hour as reported. The Respondent has no authority to budget for an amount different than that which Petitioner and/or his employer represented as his income; federal law

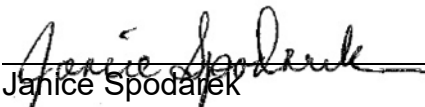
mandates that the veridictions in a welfare applicants file be the information that is used in calculating eligibility.

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 acted in accordance with Department policy when it closed Petitioner's cases due to excess income. Petitioner understands that he may reapply.

DECISION AND ORDER

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

JS/nr



Janice Spodarek
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

Richard Latimore
4733 Conner
Detroit, MI
48215

Wayne 57 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

