



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

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Date Mailed: June 11, 2024
MOAHR Docket No.: 24-005116
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 5, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Kimberly Polasek, Lead Eligibility Specialist (LES).

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-62.

ISSUE

Did the Department properly determine Petitioner’s eligibility for 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. On March ██████ 2024, Petitioner applied for FAP and MA. (Exhibit A, pp. 1-13)
2. On March ██████ 2024, a Verification Checklist was issued to Petitioner requesting verification of other unearned income and a copy of the Trust document with a due date of April 1, 2024. (Exhibit A, pp. 14-16)
3. On March ██████ 2024, Petitioner provided a bank statement. (Exhibit A, pp. 34-35)
4. On April ██████ 2024, a Notice of Case Action was issued to Petitioner stating FAP was denied based on the failure to provide requested verifications. (Exhibit A, pp. 17-20)

5. On April ■ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied based on the failure to provide requested verifications. (Exhibit A, pp. 21-26)
6. A Department Supervisor reinstated Petitioner's FAP and MA application. (Exhibit A, Hearing Summary, unnumbered)
7. On April ■ 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, Hearing Request, unnumbered)
8. On April ■ 2024, a Verification Checklist was issued to Petitioner requesting verification of other unearned income and a copy of the Trust document with a due date of May 9, 2024. It was noted that the Department would need proof of the income pulled from the trust from January, March, and April as well as a copy of the full trust. (Exhibit A, pp. 27-29)
9. On April ■ 2024, a Health Care Coverage Determination Notice was issued to Petitioner approving Petitioner for full coverage MA under the Health Michigan Plan category (MA-HMP). (Exhibit A, pp. 56-58)
10. On May ■ 2024, Petitioner provided bank statements. (Exhibit A, pp. 30-33 and 36-39)
11. Petitioner provided a copy of the trust. (Exhibit A, pp. 40-55)
12. On May 9, 2024, a Notice of Case Action was issued to Petitioner denying FAP based on income in excess of program limits. (Exhibit A, pp. 59-62)

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.

BEM 500 addresses loans:

Loans

Bridges excludes funds an individual has borrowed provided it is a bona fide loan. This includes a loan by oral agreement if it is made a bona fide loan. Bona fide loan means all the following are present:

- A loan contract or the lender's written statement clearly indicating the borrower's indebtedness.
- An acknowledgment from the borrower of the loan obligation.
- The borrower's expressed intent to repay the loan by pledging real or personal property or anticipated income.

BEM 500, April 1, 0222, p. 10.

In this case, the Department counted the money Petitioner took from the trust as income, which resulted in a denial of FAP based on income in excess of program limits. (Exhibit A, pp. 59-62; LES Testimony). Petitioner was approved for full coverage MA under the MA-HMP category. (Exhibit A, pp. 56-58).

Petitioner disputes the money from the trust being counted as income because it is a loan. Petitioner has monthly bills and is trying his best to not go delinquent. Petitioner is not currently making loan payments as he has no income. Petitioner has been in rehab but he plans to go back to work and will repay the loan when he has income. Petitioner acknowledged that there is nothing in writing for the money he borrowed from the trust. (Petitioner Testimony).

Pursuant to the BEM 500 policy, the evidence does not establish the funds borrowed meet the criteria of a bona fide loan. Therefore, the funds Petitioner borrowed from the trust were properly counted as 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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP an MA.

DECISION AND ORDER

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

CL/dm



Colleen Lack
Administrative Law Judge

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
Rose Ward
Newaygo County DHHS
**MDHHS-Newaygo-
Hearings@michigan.gov**

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Via-First Class Mail :

Petitioner

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