

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-019342
Issue No.: 2002; 3002
Agency Case No.: [REDACTED]
Hearing Date: December 3, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 3, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly deny Petitioner's Medical Assistance (MA) application effective [REDACTED]?

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective [REDACTED]?

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 [REDACTED], Petitioner applied for both FAP and MA benefits.
2. On [REDACTED], the Department sent Petitioner a Verification of Assets and Verification of Employments and they were due back by [REDACTED]. See Exhibit A, pp. 9-18.
3. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) to review her eligibility for the MA benefits (VCL did not mention review of eligibility for FAP benefits) and it was due back by [REDACTED]. See

Exhibit A, pp. 6-7. Specifically, the VCL requested proof of earned and unearned income. See Exhibit A, pp. 6-8.

4. On [REDACTED], Petitioner submitted his Verification of Assets and a Shelter Verification. See Exhibit A, pp. 22-24 and 49-50.
5. On [REDACTED], the Department received a Verification of Employment. See Exhibit A, pp. 36-37.
6. On [REDACTED], Petitioner submitted several employment verifications, loss of employment verifications, and heat and/or utility expenses. See Exhibit A, pp. 20-21, 32-35, 38-43, and 45-46.
7. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that his MA application was denied effective [REDACTED], based on his failure to comply with the verification requirements. See Exhibit B, pp. 1-2.
8. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP application was denied effective [REDACTED], based on his failure to comply with the verification requirements and excess income. See Exhibit B, pp. 3-4.
9. On or around [REDACTED], Petitioner submitted verification of two of his vehicles registrations. See Exhibit A, p. 44.
10. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

FAP benefits

In this case, there appeared to be two separate VCLs that were issued to the Petitioner. The Department sent a VCL on [REDACTED], which was sent to determine Petitioner's eligibility for his MA benefits. See Exhibit A, p. 6. However, the Department failed to present any evidence that a VCL was generated to determine Petitioner's eligibility for the FAP benefits. The undersigned assumes that a VCL potentially was issued on or around [REDACTED] because the evidence packet included a Verification of Assets, Verification of Shelter, and several Verification of Employments that were generated on [REDACTED]. See Exhibit A, pp. 9-18 and 49-50. These verifications were issued prior to the MA VCL dated [REDACTED]. Thus, the undersigned concluded that the Department most likely issued a separate VCL for the FAP benefits, due back by [REDACTED]. Nevertheless, the Department failed to present as part of the evidence record any VCL issued by the Department to determine Petitioner's eligibility for the FAP benefits.

Additionally, Petitioner had several verifications requesting loss of employment and/or current employment verifications. Petitioner's group size is four and all four group member's either had a loss of employment and/or current employment. Thus, the Department requested verification of all the group member's both on [REDACTED] for the FAP eligibility and on [REDACTED] for the MA eligibility.

After a thorough review of the evidence record, Petitioner appeared to submit the verifications on four separate occasions: [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED].

On [REDACTED], Petitioner submitted his Verification of Assets and a Shelter Verification. See Exhibit A, pp. 22-24 and 49-50.

On [REDACTED], the Department received a Verification of Employment. See Exhibit A, pp. 36-37.

On [REDACTED], Petitioner submitted several employment verifications, loss of employment verifications, and heat and/or utility expenses. See Exhibit A, pp. 20-21, 32-35, 38-43, and 45-46.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2015), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHHS representative are considered to be received the next business day. BAM 130, p. 6. The Department sends 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, p. 7.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it denied Petitioner's FAP application effective [REDACTED].

First, policy states that the Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. However, as stated, above, the Department failed to present as part of the evidence record any VCL issued by the Department to determine Petitioner's eligibility for the FAP benefits.

Second, policy states that the Department sends 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, p. 6. Even though Petitioner submitted the verifications of employment/loss of employment after the [REDACTED] due date, Petitioner did submit his Verification of Assets and a Shelter Verification by the due date. See Exhibit A, pp. 22-24 and 49-50. Thus, the undersigned concludes that Petitioner made a reasonable effort to provide verification of his verifications before the time period had elapsed. Because Petitioner made a reasonable effort to provide the verifications before the VCL due date, the Department improperly denied his application. See BAM 130, p. 7.

Third, an issue arose during the hearing that Petitioner possibly failed to provide verification of his vehicles, which also resulted in the denial of his application. On or around [REDACTED], Petitioner submitted verification of two of his vehicle registrations. See Exhibit A, p. 44. However, again, the Department failed to present any evidence that it requested verification of his vehicles in accordance with Department policy. See BAM 130, pp. 1-7.

Fourth, a second denial reason for Petitioner's FAP application was excess income. See Exhibit B, pp. 3-4. However, the Department failed to provide sufficient evidence (i.e., a FAP budget) or testimony that Petitioner was ineligible for FAP benefits due to excess income. As such, the Department failed to satisfy its burden of showing that it

properly denied Petitioner's FAP application based on excess income. BEM 550 (July 2015), p. 1; BEM 556 (July 2013), p. 3; and RFT 250 (October 2014), p. 1.

For the above stated reasons, the Department improperly denied Petitioner's FAP application and the Department will re-register and reprocess his application in accordance with Department policy.

MA benefits

For MA benefits, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130, p. 7. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 7.

At application, redetermination, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. BAM 130, p. 7. 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.

BAM 130, p. 7.

Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, pp. 7-8. 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. BAM 130, p. 8.

The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8. Only adequate notice is required for an application denial. BAM 130, p. 8.

In this case, Petitioner's MA verifications were due back by [REDACTED]. The MA verifications only requested proof of earned and unearned income. See Exhibit A, pp. 6-8. A review of the evidence record finds that Petitioner submitted the verifications by the due date. See Exhibit A, pp. 20-21, 32-35, 38-43, and 45-46. Moreover, it appeared that Petitioner was unable to submit his loss of employment as he wrote in a letter to the Department on [REDACTED], that his employer refused to complete the loss of employment form. See Exhibit A, p. 22. However, the Department had

electronic access (i.e., The Work Number) to Petitioner's employment records. See Exhibit A, pp. 25-31 and BEM 501 (July 2014), pp. 9-10 (The Work Number is not an automated system match which must be checked at application, redetermination, semi-annual or mid-certification contact. The client has primary responsibility for obtaining verification. However, if for example, verification of income is not available because the employer uses the Work Number and won't provide the employment information, it is appropriate to use the Work Number). A review of Petitioner's employment records shows that the Department had access to his Work Number profile. See Exhibit A, pp. 29-31. Moreover, policy states the Department does not deny or terminate assistance because an employer or other source refuses to verify income. BEM 501, p. 9. In this instance, the Department could have attempted collateral contact to verify that his income had ended. See BAM 130, pp. 1-9. Finally, it should be noted that policy states that verification of stopped income within 30 days prior to the application does not apply to Medicaid programs. BEM 505 (July 2015), p. 14.

Based on the foregoing information and evidence, the Department improperly denied Petitioner's MA application effective [REDACTED]. The evidence established that Petitioner submitted the MA verifications before the [REDACTED] due date. See BAM 130, pp. 7-8. As such, the Department improperly denied Petitioner's MA application and the Department will re-register and reprocess his application in accordance with Department policy.

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 (i) the Department did not act in accordance with Department policy when it denied Petitioner's FAP application effective [REDACTED]; and (ii) the Department did not act in accordance with Department policy when it denied Petitioner's MA application effective [REDACTED].

Accordingly, the Department's FAP and MA 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:

1. Initiate re-registration and reprocessing of Petitioner's FAP and MA application dated [REDACTED];
2. Issue supplements to Petitioner for any FAP and MA benefits he was eligible to receive but did not; and
3. Notify Petitioner of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/4/2015**

Date Mailed: **12/4/2015**

EF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

