



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2016
MAHS Docket No.: 16-005185
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED], the Petitioner's Authorized Hearing Representative and Application Filing Representative Authorized Representative (AR). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA applications)?

FINDINGS OF FACT

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

1. The Petitioner's AR filed an application for FAP and MA on [REDACTED]. Exhibit 6.
2. The Petitioner's AR was listed on the Application, which he filed on behalf of the Petitioner. Exhibit 6.
3. The Petitioner's AR did not receive a copy of the FAP Telephone Interview Notice. Exhibit 2.
4. The Department sent the Petitioner a Health Care Coverage Supplemental Questionnaire on [REDACTED], with a due date of [REDACTED], which was extended at the request of the AR to until [REDACTED]. Exhibit 1.

5. The Petitioner's AR returned the Supplement Questionnaire on [REDACTED], which was after the due date.
6. The Department issued a Health Care Coverage Determination Notice [REDACTED], [REDACTED], denying the Petitioner's application for failing to return the Supplemental Questionnaire by the due date. Exhibit 3.
7. The Department issue a Notice of Case Action on [REDACTED], denying the Petitioner's FAP application for failure to complete the FAP interview. Exhibit 4.
8. The Petitioner requested a timely hearing [REDACTED], protesting the Department's actions.

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.

In this case, the Department denied the Petitioner's FAP application for failure to complete an FAP interview. At all times relevant to this matter, the Petitioner was represented by an AR. A copy of the FAP Interview Appointment Notice was not sent to the AR. Exhibit 2. Thus, the Department improperly denied the application for failing to complete the interview as the Department must provide notice to the AR and did not do so in this instance. In addition, the Petitioner's AR also did not receive the Notice of Case Action dated [REDACTED], which denied the FAP application. Exhibit 4. If the Petitioner's AR had received the Notice, the AR could have scheduled an FAP interview within the 60-day period without reapplication pursuant to BAM 115. Exhibit 4.

BAM 115 provides FAP application processing policy;

An interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. For non-expedited FAP, the interview must be scheduled **to occur** by the 20th day to allow the client at least 10 days to provide verifications by the 30th day. Do not deny the application if the client has not participated in the initial interview until the 30th day after the application date even if he/she has returned all verifications.

Subsequent Processing

FAP Only

Proceed as follows when a client completes the application process **after denial** but within 60 days after the application date.

On or before the 30th day:

- Re-register the application, using the **original** application date.
- If the client is eligible, determine whether to prorate benefits according to initial benefits policy in this item.

Between the 31st and 60th days:

- Re-register the application, using the date the client **completed** the process.
- If the client is eligible, prorate benefits from the date the client complied.

Thus, based upon the Department's failure to provide the Telephone Interview Notice to the AR and failure to send the [REDACTED], Notice of Case Action to the AR, the Department must reinstate the Petitioner's FAP application retroactive to the date of denial of the application as the AR was not provided proper notice.

The Department also denied the Petitioner's application for Medical Assistance, (MA) due to the AR's failure to return a Supplemental Questionnaire sent to the AR. The Department, at the request of the AR, granted a 110-day extension; however, the Supplemental Questionnaire was not returned by the [REDACTED], due date. Department policy provides:

All Programs

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 and MAGI policy 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.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM (January 1, 2016), p. 1.

Send a case action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits. BAM 130, p. 8.

Based upon the evidence presented at the hearing, the Petitioner's AR did not return the Supplement Questionnaire by the due date; therefore the Department correctly denied the MA application; and thus, the Petitioner's AR must reapply for MA.

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 denied the Petitioner's application for MA for failure to return verifications (Supplemental Questionnaire) by the due date.

The Department did not act in accordance with Department policy when it denied the Petitioner's application for FAP as it did not provide Notice of Telephone Interview Appointment to the AR.

DECISION AND ORDER

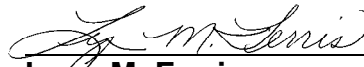
Accordingly, the Department's decision is

- **AFFIRMED IN PART** with respect to the denial of the Petitioner's MA application for failure to complete a timely verification of the Supplemental Questionnaire and
- **REVERSED IN PART** with respect to the denial of the Petitioner's FAP application for failure to complete the FAP interview.

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. The Department shall re-register the Petitioner's FAP application and process the application to determine eligibility.
2. The Department shall schedule an FAP interview with the Petitioner's AR and provide written notice of the FAP interview date and time.
3. The Department shall provide written notice to the AR of all written requests for information, and notices Issued by the Department.

LMF/jaf



Lynn M. Ferris
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) 335-6088; 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

[REDACTED]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

cc:

[REDACTED]