



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: July 22, 2016  
MAHS Docket No.: 16-007935  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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; 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 13, 2016, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on his own behalf. [REDACTED], wife; [REDACTED], daughter; and [REDACTED], daughter's boyfriend, appeared as witnesses for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager (FIM).

During the hearing proceedings, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-70.

### **ISSUES**

Is there a contested issue regarding Medical Assistance (MA) benefits?

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's eligibility for Child Development and Care (CDC) 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 16, 2016, Petitioner applied for MA, FAP, and CDC benefits. (Exhibit A, pp. 1-26)
2. On March 21, 2016, a Verification Checklist was issued to Petitioner stating what verifications were needed by the March 31, 2016, due date. (Exhibit A, pp. 27-29)
3. On March 22, 2016, a telephone interview was completed. (Exhibit A, pp. 30-31)
4. The Department was able to obtain some of the requested verifications, specifically Petitioner's income from employment, from The Work Number. (Exhibit A, pp. 32-34)
5. On March 29, 2016, the Department received employment income verification for Petitioner's wife and Petitioner's credit union account verification. (Exhibit A, pp. 35-40)
6. The Department asserts that Petitioner did not submit all of the requested verifications by the March 21, 2016, due date. (FIM Testimony)
7. The Department determined that Petitioner was not eligible for CDC benefits due to household income (\$██████) in excess of program limits (\$██████). (Exhibit A, p. 41)
8. On April 14, 2016, a Notice of Case Action was issued to Petitioner, in part, stating FAP was denied based upon a failure to comply with verification requirements and CDC was denied due to excess income. (Exhibit A, pp. 42-44)
9. On May 11, 2016, the Department received outstanding verifications. (Exhibit A, pp. 51-67)
10. On May 18, 2016, a Notice of Case Action was issued to Petitioner stating FAP was approved with an allotment of \$██████ for May 11-31, 2016; and a monthly allotment of \$██████ for June 1, 2016, through April 30, 2016. (Exhibit A, pp. 68-70)
11. On June 13, 2016, Petitioner's wife filed a hearing request contesting the MA, FAP, and CDC determinations. (Hearing Request)
12. During the July 13, 2016, hearing proceedings, Petitioner withdrew the MA portion of the hearing request on the record. (Petitioner Testimony)

### **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).

## MA

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.

During the July 13, 2016, hearing proceedings, Petitioner's wife withdrew the MA portion of her hearing request on the record. (Wife Testimony)

Accordingly, the MA portion of Petitioner's June 13, 2016, hearing request is DISMISSED.

## FAP

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.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130, January 1, 2016, pp. 1-3.

For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. If the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. The Department is to explain to the client they will not be given an extension and their case will be denied once the verification check list (VCL) due date is passed. The Department is also to explain that their eligibility will be determined based on their compliance date if they return required verifications. The Department is to re-register the application if the client complies within 60 days of the application date. BAM 130, p. 7.

In this case, a Verification Checklist was issued to Petitioner on March 21, 2016, stating what verifications were needed by the March 31, 2016, due date. (Exhibit A, pp. 27-29) Petitioner's wife's testimony acknowledged that the Verification Checklist was issued to them and noted that needed verifications were also discussed during the March 22, 2016, telephone interview. Petitioner's wife testified that some requested verifications were provided on March 23, 2016, and that all requested verifications were submitted by March 29, 2016. Petitioner's wife specified that the submitted verifications included all paycheck stubs for Petitioner and his wife, a statement regarding the debit card from her work, Petitioner's bank statement, and a lease for the home. Petitioner's wife indicated she has been told the Department did not have the statement regarding the debit card from her work. Petitioner's wife described problems trying to reach the Department, including the worker not returning the numerous messages left asking about the case status as well as discussions with a supervisor and a manager regarding the problems with the case. Petitioner's wife understood that the Department was going to have the case fixed and honor it back to the March 16, 2016, application date. (Wife Testimony)

Petitioner's wife's testimony that the worker discussed what verifications were needed during the March 22, 2016, telephone interview is supported by the Department's documentation from the phone interview. In part, the phone interview documentation notes what verifications the Department was able to obtain and what verifications were still needed. (Exhibit A, p. 31)

However, it appears that the Department has not included copies of all the verifications received in March 2016 in their hearing exhibits. Specifically, the print out of the Electronic Case File (ECF) documents that some verifications were received on March 23, 2016, besides what the Department obtained from The Work Number. (Exhibit A, p. 50) The Department has not provided a copy of the "other income verification" listed as received on March 23, 2016. Further, it appears the ECF documentation of when verifications was received was not always accurate. For example, the ECF print out indicates that The Work Number verification for Petitioner's income was received on March 23, 2016. However, the bottom of the print out from The Work Number indicates this verification was obtained on March 18, 2016.

The above cited BAM 130 policy would support determining eligibility for FAP as of May 11, 2016, the date the Department asserts the outstanding verifications were received, if the verifications were not timely submitted by the due date on the Verification Checklist. However, the Department has not provided sufficient credible evidence to establish that Petitioner failed to comply with the request for verifications by the March 31, 2016, due date. The Department's documentation of what verifications were received in March 2016 cannot be found fully credible. For example, there was no evidence submitted corresponding to one of the March 23, 2016, entries for a received verification. Further, Petitioner's wife provided detailed testimony regarding submitting copies of all needed verifications by March 29, 2016, based on receipt of the Verification Checklist as well as the conversation during the March 22, 2016, telephone interview

regarding what verifications were needed. As discussed above, Petitioner's wife's testimony was supported by the notes from the telephone interview.

Overall, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP. Accordingly, Petitioner's FAP eligibility should be re-determined retroactive to the March 16, 2016, application date.

### CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

If the program group does not qualify for one of the categorically eligible groups for CDC, the Department is to determine eligibility for the income-eligible group. Eligibility for this group is based on program group size and non-excluded income received by any member of the program group. In order to enter the CDC program, the family's gross monthly income cannot exceed the \$15.00 flat-rate family contribution for their family group size. Flat-rate family contributions are per child per biweekly pay period. For a group size of 4, the \$15 flat-rate family contribution has a gross monthly income limit of \$2,367. BEM 703, April 1, 2016, p. 15; RFT 270, January 1, 2016, p. 1; Exhibit A, p. 41.

A valid need reason is also required for CDC eligibility. There are four valid CDC need reasons, and each parent or step parent of the child needing care must have a valid need reason, which must be verified. Valid need reasons are family preservation, high school completion, an approved activity, and employment. BEM 703, April 1, 2016, p. 4.

In this case the Department determined that Petitioner was not eligible for CDC benefits due to household income (\$██████) in excess of program limits (\$██████). (Exhibit A, p. 41) Petitioner's wife disagrees with the income determination and testified the \$██████ figure the Department used was not accurate. (Wife Testimony)

As noted above, it appears that in March 2016 the Department received some other income verification for Petitioner that was not included in their hearing exhibits. (Exhibit A, pp. 32-40 and 50) Accordingly, there is insufficient information to review the CDC denial for income in excess of program limits.

As discussed during the hearing proceedings, the April 14, 2016, Notice of Case Action also indicated that CDC was denied because there was not a need for CDC services due to employment, education, or family preservation reasons. While the FIM was only filling in on this case and could only speculate, it appears the Department was aware that both parents were working to establish a need reason for CDC. For example, the Department did have employment income verifications. The FIM also indicated that sometimes the Department's computer system goes overboard in listing denial reasons. (FIM Testimony) Accordingly, there was insufficient evidence to show that the CDC denial based on a lack of a valid need reason was in accordance with Department policy.

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: there is no longer any contested issue regarding MA based upon the withdrawal of the MA portion of the hearing request on the record; the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP; and the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for CDC.

#### **DECISION AND ORDER**

Accordingly, the **MA portion of the hearing request is DISMISSED** based upon the withdrawal on the record regarding this program and the Department's decisions are **REVERSED regarding FAP and CDC**.

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. Re-determine Petitioner's eligibility for FAP and CDC retroactive to the March 16, 2016, application date in accordance with Department policy, which would include issuing written notice of the new determinations.

CL/mc



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**Colleen Lack**  
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]