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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 5, 2016
MAHS Docket No.: 16-003839
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 April 27, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUES

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

Did the Department properly deny Petitioner's State Emergency Relief (SER) application for property taxes?

Did the Department properly close Petitioner's Medical Assistance (MA) benefits 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. Petitioner was an ongoing recipient of FAP and MA benefits.
2. On [REDACTED], Petitioner applied for SER assistance with property taxes. See Exhibit B, p. 1.

3. On [REDACTED], the Department sent Petitioner an SER Verification Checklist, which requested verification of his wages and it was due back by [REDACTED]. See Exhibit B, p. 2.
4. On [REDACTED] Petitioner submitted verification of his wages. See Exhibit A, p. 7.
5. On [REDACTED], the Department sent Petitioner an SER Decision Notice notifying him that his SER application for property taxes was denied because he did not give proof of information that his local DHS office asked for. See Exhibit B, p. 5.
6. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), which requested verification of all his earned and unearned income and was due back by [REDACTED]. See Exhibit B, p. 3. It should be noted that the VCL indicated that that it was determining his eligibility for only MA benefits, and did not mention FAP benefits. See Exhibit B, p. 3.
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED], due to his failure to submit verification of his earned income. See Exhibit A, pp. 5-6.
8. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that his MA benefits would close effective [REDACTED], because he did not give proof of information that his local DHS office asked for. See Exhibit B, p. 4.
9. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 3-4.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In the present case, Petitioner applied for SER benefits on [REDACTED]. See Exhibit B, p. 1. As a result of Petitioner's application, he indicated that he had earned income, which resulted in the Department requesting verification of his wages to determine eligibility for his SER application as well as his determining his ongoing eligibility for the FAP and MA benefits. Ultimately, the Department denied his SER application and closed his FAP and MA benefits due his alleged failure to comply with verification requirements. The undersigned will address each program below.

SER application

On [REDACTED], Petitioner applied for SER assistance with property taxes. See Exhibit B, p. 1.

On [REDACTED], the Department sent Petitioner an SER Verification Checklist, which requested verification of his wages and it was due back by [REDACTED]. See Exhibit B, p. 2.

On [REDACTED], Petitioner submitted verification of his wages. See Exhibit A, p. 7. Petitioner provided an employer statement that provided the following information: (i) name and mailing address of the employer; (ii) undated letter, but the employer who completed the statement printed her name and title; and (iii) provided Petitioner's start date and his monthly wages. See Exhibit A, p. 7.

On [REDACTED], the Department sent Petitioner an SER Decision Notice notifying him that his SER application for property taxes was denied because he did not give proof of information that his local DHS office asked for. See Exhibit B, p. 5.

At the hearing, the Department testified that Petitioner failed to provide verification of employment. Specifically, the Department testified that Petitioner submitted an employment letter without a current phone number, address, or signature. The Department basically indicated that Petitioner submitted questionable information and if the phone number had been provided, then the caseworker could have conducted a collateral contact to verify his employment information.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2015), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. ERM 103, p. 6. This does not change the standard of promptness date. ERM 103, p. 6.

The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

The client must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The specialist must assist if the applicant needs and requests help. ERM 103, p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. ERM 103, p. 6. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 6.

BEM 501, Income from Employment, further states that verification of wages, salaries, and commissions include an employer signed statement providing all necessary information. See BEM 501 (July 2014), p. 10-11.

Based on the foregoing information and evidence, the Department improperly denied Petitioner's SER application for property taxes dated [REDACTED].

First, the undersigned finds that Petitioner made a reasonable effort to obtain the required verification by the due date of [REDACTED]. See ERM 103, p. 6. In fact, Petitioner submitted the requested verifications by the due date. See Exhibit A, p. 7.

Second, the Department argued that the employment verification submitted was questionable because it lacked a current phone number, address, or signature. However, the undersigned disagrees. The employer statement did contain an address and typed signature by the employer. See Exhibit A, p. 7. The employer did not physically sign the document, but typed her name out via an electronic method and provided her title to indicate she was the individual who wrote the employer statement. The undersigned finds this sufficient to consist of an employer signed statement. Moreover, the verification did not provide a phone number, nonetheless, the undersigned finds that the employer signed statement provided all necessary information to constitute a valid verification source of Petitioner's wages. See BEM 501, pp. 10-11.

Third, even if the verification source lacked some necessary information (i.e., phone number), policy states that the Department use the best available information. ERM 103, p. 6. In this case, Petitioner provided an employer signed statement that provided his monthly wages and start-date. See Exhibit A, p. 7. The Department could have used this best available information to make a determination of his SER eligibility. ERM 103, p. 6.

Based on this information, the Department improperly concluded that Petitioner did not give proof of information that his local DHS office asked for. As such, for the above stated reasons, the undersigned finds that the Department improperly denied Petitioner's SER application for property taxes dated [REDACTED].

MA benefits

On [REDACTED], Petitioner submitted verification of his wages. See Exhibit A, p. 7.

On [REDACTED], the Department sent Petitioner a VCL, which requested verification of all his earned and unearned income and was due back by [REDACTED]. See Exhibit B, p. 3. It should be noted that the VCL indicated that that it was determining his eligibility for only MA benefits, and did not mention FAP benefits. See Exhibit B, p. 3.

On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that his MA benefits would close effective [REDACTED], because he did not give proof of information that his local DHS office asked for. See Exhibit B, p. 4.

In the present case, the Department provided the same arguments as previously stated in the SER analysis as to why it closed his MA benefits.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (January 2016), 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. 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.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's MA benefits effective [REDACTED].

First, it was unclear why the Department did not send the MA checklist at the same time it sent the SER checklist. Nevertheless, as stated previously, the undersigned finds that the employer signed statement provided all necessary information to constitute a valid verification of Petitioner's wages. See BEM 501, pp. 10-11.

Second, the Department argued that it could have conducted a collateral contact of the employer to verify his employment, but his verification lacks the contact number.

A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2. It might be necessary when documentation is not available or when available evidence needs clarification. BAM 130, p. 2.

The client must name suitable collateral contacts when requested. BAM 130, p. 2. Assist the client to designate them. BAM 130, p. 2. The local office is responsible for

obtaining the verification. BAM 130, p. 2. If the contact requires the client's signed release, use the DHS-27, Release of Information, (DHS-20, Verification of Resources, for inquiries to financial institutions), and specify on it what information is requested. BAM 130, p. 2.

In this case, the Department testified that it did not contact Petitioner to obtain the employer's collateral contact because the verification was received on the last possible day and the caseworker has a Standard of Promptness (SOP). Policy states client must name suitable collateral contacts when requested. BAM 130, p. 2. In this case, the Department only requested verification of his wages, which he had provided. The Department failed to call Petitioner upon receipt of the verification to request the employers contact information. See BAM 130, p. 2.

Third, even if the verification source lacked some necessary information (i.e., phone number), policy states that the Department use the best available information. The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, use your best judgment. BAM 130, p. 3. In this case, Petitioner provided an employer signed statement that provided his monthly wages and start date. See Exhibit A, p. 7. The Department could have used this best available information to make a determination of his ongoing MA eligibility. BAM 130, p. 3.

Based on this information, the Department improperly concluded that Petitioner did not give proof of information that his local DHS office asked for. As such, for the above stated reasons, the undersigned finds that the Department improperly closed Petitioner's MA benefits effective [REDACTED].

FAP benefits

On [REDACTED], Petitioner submitted verification of his wages. See Exhibit A, p. 7.

On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED], due to his failure to submit verification of his earned income. See Exhibit A, pp. 5-6.

In the present case, the Department provided the same arguments as previously stated in the SER/MA analysis as to why it closed his FAP benefits.

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. The Department send 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 improperly closed Petitioner's FAP benefits effective [REDACTED].

First, policy states that the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. Technically speaking, the Department failed to send Petitioner a VCL to request verification of his employment income in order to determine his ongoing FAP eligibility. The Department sent Petitioner a VCL to determine his SER application eligibility and his ongoing MA eligibility, but failed to send a VCL for his FAP benefits. BAM 130, p. 3.

Second, even if the undersigned accepted the VCL sent on [REDACTED] to determine his ongoing FAP eligibility, the same analysis stated in the MA section applies below. As stated previously, Petitioner provided sufficient verification of his wages, the Department failed to contact the Petitioner in order to obtain the employer's contact number, and the Department could have used the best available information provided in order to determine his ongoing FAP eligibility. See BAM 130, pp. 1-7. Furthermore, the undersigned finds that Petitioner made a reasonable effort to provide the verifications before the time period had elapsed. See BAM 130, p. 7.

Based on this information, the Department improperly concluded that Petitioner failed to submit verification of his earned income. See Exhibit A, pp. 5-6. As such, for the above stated reasons, the undersigned finds that the Department improperly closed Petitioner's FAP benefits effective [REDACTED].

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 the Department (i) did not act in accordance with Department policy when it improperly denied Petitioner's SER application for property taxes dated [REDACTED]; (ii) did not act in accordance with Department policy when it improperly closed Petitioner's MA benefits effective [REDACTED]; and (iii) did not act in accordance with Department policy when it improperly closed Petitioner's FAP benefits effective [REDACTED].

Accordingly, the Department's SER, 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 SER application dated [REDACTED] for property taxes, in accordance with Department policy and as the circumstances existed at the time of application;
2. Issue supplements to Petitioner for any SER benefits he was eligible to receive but did not from date of application;

3. Reinstate Petitioner's MA case as of [REDACTED];
4. Issue supplements to Petitioner for any MA benefits he was eligible to receive but did not from [REDACTED];
5. Reinstate Petitioner's FAP case as of [REDACTED];
6. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from [REDACTED]; and
7. Notify Petitioner of its decision.

EF/hw



Eric Feldman

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]

[REDACTED]

Petitioner

[REDACTED]