



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: June 10, 2016
MAHS Docket No.: 16-006061
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. 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 June 1, 2016, from Detroit, Michigan. The Petitioner was represented by herself, [REDACTED] and her daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

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

Did the Department properly close Petitioner's son'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 benefits. See Exhibit B, pp. 23-24.
2. Petitioner's son was an ongoing recipient of MA benefits. See Exhibit B, pp. 6-7 and 12.
3. On [REDACTED], the Department sent Petitioner a redetermination to determine her eligibility for FAP and MA benefits, which was due back by [REDACTED].

█ See Exhibit A, pp. 27-32. Petitioner had until the end of January 2016 to submit the redetermination.

4. On or around █, the Department received Petitioner's redetermination.
5. Upon processing Petitioner's redetermination, the caseworker requested verification of Petitioner's income. See Exhibit A, p. 1.
6. Effective █ Petitioner's FAP benefits closed based on a failure to comply with the verification requirements.
7. On █, the Department sent Petitioner a Verification Checklist (VCL) and Verification of Employment (employment verification), which requested verification of her wages and it was due back by February 16, 2016. See Exhibit A, pp. 21-22 and Exhibit B, pp. 1-2.
8. On █, Petitioner submitted a signed, but undated letter, from her employer, which stated the following: (i) the owner's name and the company's name; (ii) Petitioner received wages of \$620 from December 1st to December 15th, 2015 and no wages from December 15th to December 31st, 2015; and (iii) letter provided his contact number. See Exhibit A, p. 23.
9. On █, the Department sent Petitioner a Quick Note indicating the letter from her employer was an improper income verification because it was not on letterhead and had no contact information for the employer or business. See Exhibit A, p. 7. The Quick Note reminded Petitioner that the income verification was due by February 16, 2016. See Exhibit A, p. 7.
10. On █, Petitioner submitted what appeared to be two different employment verifications. See Exhibit A, pp. 21-22 and 24-25.
11. On █, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her son was found eligible for MA benefits for March 2016, but made no mention that his benefits had closed effective █, due to failure to comply with the verification requirements. See Exhibit A, pp. 4-6.
12. On █, the Department sent Petitioner another employment verification, but without any due date. See Exhibit A, pp. 8-9.
13. On █, the Department sent Petitioner an additional employment verification, but this time with a due date of █. See Exhibit 1, pp. 35-36. This employment verification was completed by the employer with a signed date of █ but without any stamp date from the Department indicating that it received the document. See Exhibit 1, pp. 35-36.

14. On [REDACTED], Petitioner submitted an employment verification and several pay stubs. See Exhibit A, pp. 8-20.
15. 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.

Preliminary matter

In the present case, Petitioner also disputed the closure of her Medical Assistance (MA) benefits. See Exhibit A, pp. 2-3. However, the Department presented Petitioner's Medicaid Eligibility document, which shows that last time she received MA coverage was in January 2014. See Exhibit B, pp. 4-5. Petitioner's hearing request, though, is dated in May 2016. See Exhibit A, pp. 2-3. The undersigned lacks the jurisdiction to address Petitioner's dispute with her MA benefits as the closure occurred more than two-years-ago. See BAM 600 (October 2015), pp. 1-6 (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days). As such, Petitioner's MA hearing request regarding her MA closure is dismissed for lack of jurisdiction. See BAM 600, pp. 1-6. Nonetheless, the undersigned will address Petitioner's dispute with the FAP closure effective [REDACTED] and the closure of her son's MA benefits effective [REDACTED].

FAP and MA benefits

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2016), p. 1. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1.

A complete redetermination is required at least every 12 months. BAM 210, p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 2. For MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 2. Also, the renewal month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 2.

A redetermination/review packet is considered complete when all of the sections of the redetermination form, including the signature section, are completed. BAM 210, p. 10. Exception: For FIP, SDA and FAP only, if any section of the redetermination/review packet has not been completed but there is a signature, consider the redetermination/review complete. BAM 210, p. 10. Complete any missing sections during the interview. BAM 210, p. 10. When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 11. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11. For MA cases, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 11.

To complete the redetermination process, the Department will generate a verification checklist (VCL) for any missing verifications. See BAM 210, pp. 15-16.

For MA cases, verifications are due the same date as the redetermination/review interview. BAM 210, p. 14. When an interview is not required, verifications are due the date the packet is due. BAM 210, p. 14. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 14. If the tenth day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210, p. 14. The Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 14.

For FAP cases, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 15. If the tenth day falls on a weekend or holiday, the verification will not be due until

the next business day. BAM 210, p. 15. Note: the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 15.

In the present case, Petitioner's caseworker determined that she submitted incomplete income verifications, which resulted in the closure of the FAP benefits and her son's MA benefits. Whereas, Petitioner argued that she submitted proper employment verifications. For example, Petitioner submitted a signed letter from her employer on [REDACTED], to verify her income and this document was submitted by the due date. See Exhibit A, p. 23. However, the caseworker indicated that the verification was incomplete and sent Petitioner a Quick Note detailing the reasons. See Exhibit A, p. 7. This issue appeared to continue forward as the caseworker sent Petitioner additional verifications, but ultimately determined she failed to comply with the verification requirements.

Based on the foregoing information and evidence, the undersigned finds that (i) the Department improperly closed Petitioner's FAP benefits effective [REDACTED]; and (ii) the Department improperly closed Petitioner's son's MA benefits effective [REDACTED].

First, the undersigned finds the employer's letter Petitioner submitted on [REDACTED] was an acceptable form of verification and that it was timely submitted within the verification deadlines of the redetermination process. See Exhibit A, p. 23 and BAM 210, pp. 14-15. BEM 501, Income from Employment, states that verification for wages, salaries, and commissions includes an employer signed statement providing all necessary information. BEM 501 (July 2014), pp. 10-11. Here, Petitioner submitted a signed employer statement that provided the employer's name, Petitioner's income received for December 2015, and the employer's contact information. See Exhibit A, p. 23. The undersigned finds that the verification submitted fell within the requirements of department policy. See BEM 501, p. 11. Moreover, Petitioner submitted what appears to be two different employment verifications on the due date of [REDACTED]. See Exhibit A, pp. 21-22 and 24-25. Thus, Petitioner provided the verifications requested by the Department, and they were submitted within the verification deadlines of the redetermination process. See BAM 210, pp. 14-15 and BEM 501, p. 11.

Second, even if the verifications were not satisfactory to the caseworker, policy states that if neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130 (January 2016), p. 3. If no evidence is available, use your best judgment. BAM 130, p. 3. Thus, rather than closing the FAP and MA benefits, the Department should have used the best available information to determine Petitioner's ongoing FAP eligibility and her son's ongoing MA eligibility. See BAM 130, p. 3. It should be noted that the undersigned finds that Petitioner also made a reasonable effort to provide the verification before the time period had elapsed (reasonable policy only applicable to FAP cases). See BAM 130, pp. 6-7.

Third, there is also a notice issue present in this case as the Department failed to provide Petitioner any notice of the FAP/MA closures. For the redetermination process and verification notice rules for MA cases, policy states that the Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 14. However, the Department failed to provide any evidence that Petitioner's son received any timely notice of the case closure for his MA benefits. BAM 210, p. 14. For FAP cases, policy is different in regards to the notice rules for the redetermination process. For FAP cases, policy states that if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG and a DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11. But, in this case, a redetermination packet was submitted on or around [REDACTED]. Moreover, policy is silent as to whether a notice is generated to clients for FAP cases when they fail to comply with the verification requirements during the redetermination process. See BAM 210, pp. 14-15. Thus, the undersigned turns to BAM 130, Verification and Collateral Contacts, which states that for FAP cases, only adequate notice is required for an application denial. BAM 130, p. 7. Timely notice is required to reduce or terminate benefits. BAM 130, p. 7. Exception, at redetermination, FAP clients have until the last day of the redetermination month or 10 days, whichever is later, to provide verification. BAM 130, p. 7. Thus, it appears that the Department also failed to provide Petitioner any notice of her FAP case closure, if the denial is based on a verification issue. BAM 130, p. 7

Nonetheless, based on the above stated reasons, the undersigned finds that (i) the Department improperly closed Petitioner's FAP benefits effective [REDACTED]; and (ii) the Department improperly closed her son's MA 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 closed Petitioner's FAP benefits effective [REDACTED]; and (ii) did not act in accordance with Department policy when it improperly closed Petitioner's son's MA benefits 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. Redetermine Petitioner's FAP eligibility effective [REDACTED] and Petitioner's child's MA eligibility effective [REDACTED];
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] ongoing; and

3. Issue supplements to Petitioner's child for any MA benefits he was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's MA hearing request regarding her MA closure is **DISMISSED** for lack of jurisdiction.

EF/hw



Eric J. 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]