



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: October 18, 2016
MAHS Docket No.: 16-013155
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 [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED], Petitioner; his spouse, [REDACTED] and his Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly close Petitioner and his group member's Medical Assistance (MA) and Food Assistance Program (FAP) 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. Petitioner and his group member's (spouse, two adult sons, and daughter (minor)) were ongoing recipients of FAP and MA benefits.
2. On or about [REDACTED], Petitioner's caseworker submitted a Front-End Eligibility (FEE) referral due to issues in Petitioner's income. Exhibit A, p. 10.

3. The FEE referral alleged that Petitioner reported he worked [REDACTED] hours per week at \$[REDACTED] per week, but the employer gave a client statement that he had not worked since [REDACTED]. Exhibit A, p. 10.
4. As a result of the FEE referral, an Office of Inspector General (OIG) agent was assigned to the case to investigate the allegations of Petitioner's income. Exhibit A, pp. 10-12.
5. On an unspecified date, the FEE report indicated that the OIG agent made an unscheduled visit to Petitioner's alleged employment and spoke with a manager who indicated that Petitioner had not completed any work for the employer since [REDACTED]. Exhibit A, p. 10.
6. During the investigation, the OIG agent also ran a CLEAR report in which it indicated that Petitioner possibly had ownership with [REDACTED] (Petitioner's brother) in two properties, "[REDACTED]" and "[REDACTED]". See Exhibit A, pp. 11 and 14-31.
7. The OIG agent also discovered possible vehicle ownerships as well. Exhibit A, pp. 11 and 14-31.
8. The FEE report indicated that the OIG agent recommended that the caseworker send out a Verification Checklist (VCL) to request verification of the properties and the vehicle ownerships in order to make a determination of Petitioner's ongoing eligibility for benefits. Exhibit A, p. 11.
9. On [REDACTED], the Department sent Petitioner a VCL, which requested verification of Petitioner's earned and unearned income. Exhibit A, p. 32. The VCL was due back by [REDACTED]. Exhibit A, p. 32. The VCL did not request verification of any of Petitioner's alleged assets.
10. The Department alleged that it did not receive any of the requested verifications by the due date.
11. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his group member's MA benefits had closed either [REDACTED], ongoing or [REDACTED], ongoing, due to his failure to comply with the verification requirements. Exhibit A, pp. 6-7.
12. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits closed effective [REDACTED], due to his failure to comply with the verification requirements. Exhibit A, pp. 8-9.
13. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-4.

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.

As a preliminary matter, Petitioner originally had his spouse, [REDACTED], designated as the AHR. Exhibit A, p. 3. During the hearing, though, Petitioner revoked his spouse's AHR privileges and assigned [REDACTED] to be his AHR for the hearing. Exhibit 1, p. 1.

In the present case, Petitioner and his group members were ongoing recipients of FAP and MA benefits. On or about [REDACTED], Petitioner's caseworker submitted a FEE referral due to issues in Petitioner's income. Exhibit A, p. 10. As a result of the FEE referral, an OIG agent was assigned to the case to investigate the allegations. Exhibit A, pp. 10-12. During the investigation, though, the OIG agent also discovered possible issues relating to Petitioner's assets, specifically, his property and vehicle ownerships. Exhibit A, pp. 10-11. The FEE report indicated that the OIG agent ran a CLEAR report, which indicated the following: (i) the report listed Petitioner's most current address as [REDACTED]; and even though it reflects him having quit-claim deeded the home to [REDACTED] (Petitioner's brother) on [REDACTED], attached [REDACTED] County Property and Tax Information inquiry reflects him as the owner of both parcels associated with the address; (ii) the report also reflects a deed transfer for the home located at [REDACTED], to Petitioner on the same date; and [REDACTED] County records for this home have not been updated; (iii) the report also yielded information that [REDACTED], who is not listed on Petitioner's case, has a [REDACTED] registered at [REDACTED]; and (iv)

the OIG agent recommended that the caseworker request a VCL for the assets to determine ongoing eligibility. Exhibit A, pp. 10-11.

On [REDACTED], the Department sent Petitioner a VCL, which requested verification of Petitioner's earned and unearned income. Exhibit A, p. 32. The VCL was due back by [REDACTED]. Exhibit A, p. 32. The VCL, though, did not request verification of any of Petitioner's alleged assets. The Department indicated that it did not receive any of the requested verifications by the due date. As a result of Petitioner's failure to comply with the verification requirements, the Department argued that it closed the MA and FAP benefits. Exhibit A, pp. 6-7.

Additionally, the undersigned Administrative Law Judge (ALJ) needed additional clarification from the Department regarding the assets at issue. First, the Department testified that it needed clarification regarding the property ownerships to [REDACTED] and [REDACTED]. Furthermore, the Department testified that it needed explanation regarding the vehicle ownerships to a [REDACTED] and a [REDACTED]. See Exhibit A, pp. 29-30.

In response, Petitioner's AHR makes the following arguments and/or assertions: (i) Petitioner owned only the [REDACTED] address; (ii) his brother, [REDACTED] owns the [REDACTED] address; (iii) Petitioner's brother owns the [REDACTED] and Petitioner does not own the [REDACTED]; (iv) Petitioner owns a [REDACTED] and his spouse owns a [REDACTED]; and (v) Petitioner submitted verification of his income and assets on [REDACTED].

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (July 2016), p. 1. One reason why the Department might obtain verification is when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. The questionable information might be from the client or a third party. BAM 130, p. 1.

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.

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.

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. 7. 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.

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, 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.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's FAP and MA benefits in accordance with Department policy.

First, policy allows the Petitioner 10-days to provide the requested verifications. The VCL was issued on [REDACTED] with a due date of [REDACTED]. Exhibit A, p. 32. At first glance, it appears that the Department properly provided Petitioner with the 10 days to provide the verifications. However, the Department issued Petitioner's closure notices on [REDACTED], which was one-day before the verification due date. Exhibit A, pp. 6-9. The undersigned finds that this is improper. The Department did not give Petitioner the 10-days he is allotted to provide the verifications that were requested. As such, the Department did not act in accordance with Department policy when it failed to allow Petitioner 10 calendar days (or other time limit specified in policy) to provide the verifications that were requested. BAM 130, pp. 7 and 8.

Second, the undersigned finds that the VCL, itself, was improper. The purpose of why the Department sent the VCL was to obtain clarification of Petitioner's income and asset ownerships. However, the VCL only requested proof of Petitioner's income and made no mention of the property and vehicle ownerships. Exhibit A, pp. 32-33. Policy states that the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. In this case, the Department failed to inform Petitioner what verifications were required as it related to assets that are at issue in this case. Because the Department failed to properly inform Petitioner of what verifications were required in this case, it improperly made the determination that Petitioner failed to comply with the verification requirements. See BAM 130, p. 3. As a result, the Department improperly closed Petitioner's FAP and MA benefits in accordance with Department policy.

For the above-stated reasons, the undersigned finds that the Department improperly closed Petitioner's and his group members' MA and FAP benefits. The Department is ordered to reinstate benefits 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 closed Petitioner's and his group members' MA benefits effective [REDACTED]; and (ii) the Department **did not** act

in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED].

Accordingly, the Department's FAP and MA decisions are **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. Reinstate Petitioner and his group members' MA benefits effective [REDACTED] ongoing;
2. Issue supplements to Petitioner and his group members' MA benefits they were eligible to receive but did not from [REDACTED];
3. Reinstate Petitioner's FAP benefits effective [REDACTED], ongoing;
4. Issue supplements to Petitioner for FAP benefits he was eligible to receive but did not from [REDACTED]; and
5. Notify Petitioner of its decision.

EJF/jaf



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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]

Via email

[REDACTED]