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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: October 28, 2016
MAHS Docket No.: 16-013697
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 October 18, 2016, from Lansing, Michigan. [REDACTED] [REDACTED] [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist. [REDACTED] [REDACTED] Assistance Payments Supervisor, and [REDACTED] [REDACTED] Lead Worker with the Office of Child Support (OCS) appeared as witnesses for the Department.

During the hearing, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-15.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case based on a failure to cooperate with child support requirements and a failure to comply with verification requirements?

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 August 18, 2016, Petitioner applied for FAP as well as Medical Assistance (MA) and a cash assistance program (FIP). (Exhibit A, p. 1)

2. On August 19, 2016, a Verification Checklist was issued stating what verifications were needed to determine eligibility for FAP and MA. The due date was August 29, 2016. In the “please provide additional information about section”, it was stated that the Department needed proof of all earned and unearned income. (Exhibit A, pp. 5-6)
3. Petitioner was determined to be in non-compliance with child support requirements effective August 21, 2016. (OCS Lead Worker Testimony)
4. On August 22, 2016, a Verification Checklist was issued stating what verifications were needed to determine eligibility for FAP. The due date was September 1, 2016. The Department specifically requested verification of income for a group member, [REDACTED], such as the last 30 days of check stubs or earnings statements. (Exhibit A, pp. 7-8)
5. On August 24, 2016, a Verification Checklist was issued stating what verifications were needed to determine eligibility for Cash and MA. The due date was September 6, 2016. Requested verifications again specifically included [REDACTED]’s income. Additionally, in the “please provide additional information about section”, it was requested that Petitioner contact OCS to comply with child support requirements. (Exhibit A, pp. 11-12)
6. On September 8, 2016, a Notice of Case Action was issued to Petitioner, in part stating that the FAP case would close effective October 1, 2016, based on a failure to cooperate with child support requirements and a failure to comply with verification requirements. (Exhibit A, pp. 13-15)
7. On September 13, 2016, Petitioner contacted OCS and was placed in cooperation status with child support requirements. (OCS Lead Worker Testimony)
8. On September 16, 2016, Petitioner filed a hearing request contesting the FAP case action and providing a copy of a September 16, 2016, pay check stub for [REDACTED]. (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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of

Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, April 1, 2015, p. 1.

Cooperation with OCS is required for the FAP program. The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255 p.2. For FAP, failure to cooperate without good cause only results in disqualification of the individual who failed to cooperate. BEM 255, p. 14.

Clients must cooperate with the local office in determining initial and ongoing eligibility, which includes completion of necessary forms and completely and truthfully answering all questions on forms and in interviews. BAM 105, April 1, 2016, p. 9.

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, July 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.

Petitioner's hearing request was filed contesting the FAP closure. (Exhibit A, p. 2) The September 8, 2016, Notice of Case Action, in part stated that the FAP case would close effective October 1, 2016, based on a failure to cooperate with child support requirements and a failure to comply with verification requirements. (Exhibit A, pp. 13-15)

The Department made several requests for income verifications over the multiple checklists that were issued for the needed documentation to determine eligibility for the various programs Petitioner applied for. The Department witnesses confirmed that for the FAP closure, the requested verification at issue was income verification for a group member, [REDACTED]. (Exhibit A, pp. 1, 5-8, and 11-15; Eligibility Specialist Testimony)

On August 19, 2016, a Verification Checklist was issued stating what verifications were needed to determine eligibility for FAP and MA. The due date was August 29, 2016. In the "please provide additional information about section", it was stated that the Department needed proof of all earned and unearned income. (Exhibit A, pp. 5-6) However, this request did not specifically state whose income verification was being requested and how to obtain it.

On August 22, 2016, a Verification Checklist was issued stating what verifications were needed to determine eligibility for FAP. The due date was September 1, 2016. The Department specifically requested verification of income for a group member, [REDACTED], such as the last 30 days of check stubs or earnings statements. (Exhibit A, pp. 7-8) This request for income verification for [REDACTED] clearly followed the requirements found in the BAM 130 policy to specify what verification is required, how to obtain it, and the due date that allowed 10 days to provide the requested verification.

Similarly, the August 24, 2016, Verification Checklist, in part, specifically requested verification of income for [REDACTED], such as the last 30 days of check stubs or earnings statements, by the September 6, 2016, due date. (Exhibit A, pp. 11-12) This request for income verification for [REDACTED] also clearly followed the requirements found in the BAM

130 policy to specify what verification is required, how to obtain it, and the due date that allowed 10 days to provide the requested verification.

The Eligibility Specialist credibly testified that the Department did not receive the requested income verification for [REDACTED] by the due date or any response to that portion of the verification requests. It was not until the September 16, 2016, hearing request was filed that the Department received a paystub for [REDACTED]'s income. The paycheck stub is for the pay date of September 16, 2016. (Eligibility Specialist Testimony; Exhibit A, pp. 2-3)

Additionally, the OCS Lead Worker credibly testified that Petitioner was determined to be in non-compliance with child support requirements effective August 21, 2016. (OCS Lead Worker Testimony) Accordingly the August 24, 2016, Verification Checklist with the due date of September 6, 2016, in the "please provide additional information about section", requested that Petitioner contact OCS to comply with child support requirements. (Exhibit A, pp. 11-12) The OCS Lead Worker credibly testified that on September 13, 2016, Petitioner contacted OCS and was placed in cooperation status with child support requirements. (OCS Lead Worker Testimony)

Petitioner explained that he got confused when he got all the information over multiple packets. Petitioner indicated he was faxing the same things to the Department over and over again and it seems like they keep requesting the same thing. Petitioner tried his hardest to get things in. Petitioner also has MS, which affects his memory. Additionally, Petitioner explained that he asked [REDACTED] for her paycheck stubs, but she would throw them away. [REDACTED] is Petitioner's 17 years old sister, their mother is in long term care, and Petitioner has Guardianship over her. Petitioner did try to obtain the needed paycheck stubs from [REDACTED]'s boss, but he stated that he could not provide them and that [REDACTED] has to be more responsible. Accordingly, with the hearing request, Petitioner provided the best information he had, a current paycheck stub showing year to date earnings for [REDACTED]. (Petitioner Testimony)

It is understandable that there may be some confusion when multiple packets arrive in the mail with forms to be completed and/or requests for verifications that need to be provided, particularly when there is a medical condition that may affect memory. Whenever there are multiple programs that are active and/or applied for, the Department will have various forms that need to be completed and verifications that must be provided to determine eligibility under the applicable rules for each program. Unfortunately, sometimes those requests for forms and verifications for the various programs may overlap.

In this case, the Department's documentation does establish that the verification at issue for the FAP case action, the income verification for [REDACTED], was requested in accordance with the above cited BAM 130 policy on the August 22, 2016, Verification Checklist with the September 1, 2016, due date and on the August 24, 2016, Verification Checklist with the September 6, 2016, due date. (Exhibit A, pp. 7-8 and 11-12) The Department did not receive any response to this portion of the verification

requests by the due dates, such as any documentation of [REDACTED]'s income or any requests for assistance with obtaining this verification. Accordingly, the Department's proposed closure of the FAP case was in accordance with the BAM 130 policy. Further, the credible testimony of the OCS Lead Worker established that Petitioner was determined to be in noncompliance with child support requirements from August 21, 2016, until September 13, 2016. (OCS Lead Worker Testimony)

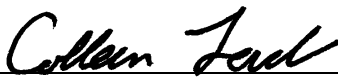
Overall, the evidence establishes that at the time the September 8, 2016, Notice of Case Action was issued, Petitioner had not provided the requested verification of [REDACTED]'s income and was in non-compliance status regarding child support requirements. Accordingly, the Department's action must be upheld.

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 acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits case based on a failure to cooperate with child support requirements and a failure to comply with verification requirements based on the information available at the time of the September 8, 2016, Notice of Case Action.

Accordingly, the Department's decision is **AFFIRMED**.

CL/mc



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

Department Representative

[REDACTED]

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]