



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: February 13, 2017
MAHS Docket No.: 16-018800
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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], from Detroit, Michigan. The Petitioner was represented by herself. Also present and testifying was [REDACTED], her husband. An [REDACTED] interpreter/translator, [REDACTED], of [REDACTED], appeared and participated for part of the hearing until her telephone connection was lost. Thereafter, [REDACTED], an [REDACTED] interpreter/translator, completed the hearing and served as interpreter/translator for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly process the Petitioner's Family Independence Program (FIP) Cash Assistance, Food Assistance Program (FAP) and Medical Assistance (MA) benefits cases?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner had been a recipient of FIP cash assistance, FAP and MA.
2. The Department sent the Petitioner a Verification Checklist (VCL) dated [REDACTED], requesting verification of Self-Employment Income so the Department could determine Petitioner's eligibility for **FIP Cash Assistance and**

- FAP benefits.** The verifications were due by [REDACTED]. The verifications were not received by the Department by the due date, and no verification of self-employment income had been provided by Petitioner at the time of the instant hearing. Exhibit A.
3. The Department sent a VCL dated [REDACTED], requesting verification of Self-Employment Income so the Department could determine Petitioner's eligibility for **FIP Cash Assistance and FAP benefits and MA**. The verifications were due by [REDACTED]. The verifications were not received by the Department by the due date, and no verification had been provided by Petitioner at the time of the instant hearing. Exhibit B.
 4. The [REDACTED], VCL sent to the Petitioner requested the following: PLEASE BE ADVISED THAT SELF EMPLOYMENT INCOME IS NEEDED FOR THE MONTHS OF **AUGUST, SEPTEMBER AND OCTOBER** FOR ALL PROGRAMS. Exhibit B.
 5. The Department sent the Petitioner a VCL for **MA** dated [REDACTED], requesting verification of all earned and unearned income, including a request to provide proof of last 30 days for employment, unemployment, Social Security benefits, pension, etc., also provide proof of self-employment/expense records over the last year. Examples of proof include copies of check stubs, self-employment records or a statement from your source of income. The verifications were due by [REDACTED]. The verifications were not received by the Department prior to the due date and had not been provided by Petitioner at the time of the instant hearing. Exhibit C.
 6. The Department issued a Health Care Coverage Determination Notice (HCCDN) dated [REDACTED], closing the Petitioner's MA, effective [REDACTED], because verification of income was not returned. Exhibit D.
 7. On [REDACTED], the Department received a verification of self-employment from Petitioner for the months of [REDACTED] and [REDACTED].
 8. The Department's Hearing Summary, dated [REDACTED], which was read into the hearing record, states: "Client failed to provide verification of self-employment income on [REDACTED] due [REDACTED]. On [REDACTED] [REDACTED] requested extension due to unforeseen circumstances by email. Two extensions were granted. FIP/FAP case went into closure on [REDACTED]. Client requested a timely hearing and case was reinstated, however pending for self-employment income. [REDACTED] has yet to provide verification of self-employment."
 9. The Petitioner requested a hearing on [REDACTED], protesting the Department's actions.

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.

In this case, the Petitioner requested a hearing regarding the closure of her FIP cash assistance, FAP and MA. The closures for FIP and FAP occurred because the Department was unable to verify Petitioner's self-employment income. As regards the FIP and FAP closures, two VCL's were sent to the Petitioner on [REDACTED], and [REDACTED], which were due [REDACTED], and [REDACTED], respectively. The Department testified through its Representative that the Department never received any verification of self-employment income from the Petitioner in response to either of [REDACTED], or [REDACTED], VCL's. The Petitioner, when questioned, admitted that she did not provide the self-employment verifications as requested by the Department. The only verifications received by the Department were for earlier months [REDACTED] and [REDACTED] provided by Petitioner on [REDACTED], which were provided not in response to any of the verifications involved in this appeal.

An applicant or ongoing recipient must provide verifications for matters involving program eligibility. BAM 130 provides:

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required. BAM 130 (January 1, 2016), p. 1.

When seeking verification the Department is required to tell the client what verification is required, how to obtain it, and the due date; BAM 130 (January 1, 2016), p. 3.

As regards timeliness of verifications, BAM 130 provides:

FIP, SDA, Child Development and Care (CDC), FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

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

For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, assist the client with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. BAM 130. p. 7

Based upon the evidence presented, the Department established that it properly closed the Petitioner's FIP and FAP cases because no verification of self-employment income was provided by Petitioner. Because both the FIP and the FAP benefit programs are based in part on income eligibility for the program, the Department must be able to verify income so it can determine group eligibility for FAP and FIP benefits. Because the Department could not verify Petitioner's self-employment income, the Department correctly closed the Petitioner's FIP and FAP benefits. The Department granted the Petitioner two extensions due to emergency circumstances claimed by Petitioner even

though the Department is not required to grant any extension for the verification of information for the FAP program. At a point, verifications must be provided to establish income for the household or the program must close.

The Department sent a Health Care Coverage Determination Notice dated [REDACTED] closing the Petitioner's MA effective [REDACTED], for failure to verify income. The Department closed the Petitioner's MA even though it sent the Petitioner a verification three days later regarding her MA program benefits requesting proof of income and self-employment/expenses on [REDACTED], giving Petitioner until [REDACTED], to provide proof of income. The Department could not explain the discrepancy or why the case was closed while a verification for income was pending. Given this evidence, it is determined that the Department did not meet its burden to show that it properly closed the Petitioner's MA case.

For Medicaid verification:

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p.8

Send a case action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed.

Given the confusion created by the Department's closure of the MA case for the Petitioner and subsequent request for verification of income with a due date, the Department did not demonstrate compliance with BAM 130 and did not meet its burden of proof to establish that it properly closed the Petitioner's MA case.

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 the Petitioner's FAP and FIP benefits for failure to verify self-employment income.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's MA case.

Accordingly, the Department's decision is **AFFIRMED** with respect to the closure of the Petitioner's FAP and FIP Cash Assistance; **REVERSED** with respect to the closure of the Petitioner's MA case.

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. The Department shall reinstate the Petitioner's MA case and process the case in accordance with Department policy.
2. The Department shall provide the Petitioner written notice of its determination.

LMF/jaf



Lynn M. Ferris

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]

[REDACTED]