



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 9, 2017
MAHS Docket No.: 16-019330
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 February 7, 2017, from Lansing, Michigan. Petitioner appeared and represented himself. [REDACTED] [REDACTED] Hearing Facilitator, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1**: Redetermination (page 1), Verification Checklist (page 2), Bank Statement from [REDACTED] [REDACTED] (page 3), Health Care Coverage Determination Notice (pages 4-5), Notice of Missed Interview (page 6)].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP), Medical Assistance (MA) and Medicare Savings Program (MSP) cases due to failure to provide requested verifications?

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 active for FAP, MA, and MSP.¹ [Department Exhibit 1, p. 1].
2. On October 10, 2016, the Department mailed Petitioner a redetermination form (DHS-1010), which indicated that Petitioner had a telephone interview appointment scheduled for November 9, 2016, at 8:00am. [Dept. Exh. 1, p. 1].
3. The telephone interview did not occur on November 9, 2016. [Hearing Testimony].
4. On November 9, 2016, the Department mailed Petitioner a Notice of Missed Interview (DHS-254). The notice instructed Petitioner to contact his caseworker to reschedule the interview before November 30, 2016. [Dept. Exh. 1, p. 6].
5. Prior to November 30, 2016, Petitioner called his caseworker and left voicemail messages, but the caseworker did not return his calls. [Hrg. Test.].
6. On November 23, 2016, the Department mailed Petitioner a Verification Checklist (DHS-3503), which requested Petitioner verify his accounts with [REDACTED], [REDACTED], and [REDACTED]. The proofs were due by December 5, 2016. No additional information was provided on the verification request. [Dept. Exh. 1, p. 2].
7. Petitioner did not have an open account at the time. [Hrg. Test.].
8. On December 5, 2016, Petitioner faxed a copy of a bank statement from [REDACTED] from February 7, 2015, to March 10, 2015, which indicated that he had a balance of \$ [REDACTED] [Dept. Exh. 1, p. 3].
9. On December 19, 2016, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606), which determined that he was no longer eligible for health care coverage (MA and MCS) because he failed to return verifications. [Dept. Exh. 1, pp. 4-5].
10. The Department allegedly closed Petitioner's FAP case due to failure to return requested verifications. [Hrg. Test.]
11. Petitioner requested a hearing to dispute the Department's action concerning FAP, MA, and MCS. [Request for Hearing].

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

¹ The Department did not specify whether Petitioner was active for Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB) or Additional Low-Income Beneficiaries (ALMB).

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.

Medicare Savings Programs (MSPs) are SSI-related MA categories. They are neither Group 1 nor Group 2. BEM 165 (10-1-2016), p. 1, describes the three categories that make up the Medicare Savings Programs. The three categories are: (1) Qualified Medicare Beneficiaries (QMB), which is also called full-coverage QMB and just QMB. Program group type is QMB. (2) Specified Low-Income Medicare Beneficiaries (SLMB), which is also called limited-coverage QMB and SLMB. Program group type is SLMB; and (3) Q1 Additional Low-Income Medicare Beneficiaries (ALMB). This is also referred to as ALMB and as just Q1. Program group type is ALMB. See BEM 165, p. 1.

In the instant matter, Petitioner requested a hearing because the Department allegedly closed Petitioner's FAP case and did close his MA and MSP cases due to failure to provide requested verifications. The Department sought verification of Petitioner's account assets. Petitioner states that he did not have any open accounts at the time the verification request was sent. Petitioner further argues that the Department closed his FAP, MA, and MSP cases because it refused to accept verification of a bank statement he sent. The Department contends that Petitioner, on December 5, 2016, submitted a statement from [REDACTED], which was dated February 7, 2015, to March 10, 2015. According to the Department, this statement was misleading as the presence of the dates suggested that Petitioner still had an open account with [REDACTED]. The Department argues that Petitioner should have sent a letter or a statement from [REDACTED] which indicated that his accounts were closed.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, (7-1-2016) p. 1. The Department will

obtain verification when: (1) required by policy²; (2) required as a local office option³; or (3) Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM 130, p. 1. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130, p. 1.

The Department often uses the DHS-3503, Verification Checklist (VCL) to request verification. BAM 130, p. 3. When obtaining verifications, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For all programs, the Department must give the client a reasonable opportunity to resolve any discrepancy between his [or her] statements and information from another source. BAM 130, p. 8. [Emphasis added].

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, the Department did not follow BAM 130, p. 3. First, the November 23, 2016, VCL did not clearly “tell the client what verification is required,” nor did it clearly instruct Petitioner “how to obtain it.” See BAM 130, p. 3. Here, Petitioner had no reason to believe that submission of a former bank statement from a closed account would be rejected by the Department and would be construed as an open account. The Department’s argument that Petitioner should have provided a document from the bank that indicated the account was closed was never properly communicated to Petitioner. The Department could have easily inserted this language within the “comments” section of the November 23, 2016, VCL, but the Department did not do so. Without advance notice or clearer instructions, the Petitioner should not be required to predict what the Department may determine to be acceptable verification.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department should not have closed his FAP, MA, and MSP cases due to failure to provide requested verifications.

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 did not act in accordance with Department policy.

² Bridges Eligibility Manual (BEM) items and MAGI policy specify which factors and under what circumstances verification is required.

³ The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for Medicaid Assistance (MA).

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Petitioner's FAP, MA, and MSP cases back to the date of closure.
2. Redetermine Petitioner's eligibility for FAP, MA, and MSP.
3. If the Department decides to send Petitioner additional verification requests, the verification requests should specifically inform what Petitioner is required to provide, how to obtain the verifications and the due date.
4. To the extent required by policy, the Department shall provide Petitioner with supplemental or retroactive program benefits.

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell
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]