



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 9, 2017
MAHS Docket No.: 17-005418
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 7, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. Her husband, [REDACTED], appeared as a witness on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

Did the Department properly close Petitioner's household's Medicaid (MA) 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. Petitioner was an ongoing recipient of FAP benefits.
2. In connection with a front-end eligibility (FEE) investigation, the Office of Inspector General (OIG) conducting the investigation found information indicating that Petitioner had an interest in a jewelry company and a towing company.
3. Petitioner denied having any interest in the businesses and informed the investigator that the businesses belonged to her aunt and uncle.

4. On March 24, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her self-employment income and home rent. The “comments” section of the VCL stated “[REDACTED] request [sic] a signed written statement and/or tax returns from the Aunt and Uncle in regards to the businesses, [REDACTED].” The requested documents were due April 3, 2017. (Exhibit E, pp. 12-13.)
5. Petitioner attempted to turn in her tax documents and informed her worker that she could not get any documents from her aunt and uncle.
6. On April 11, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP case was closing effective May 1, 2017 because she had failed to verify self-employment payments (Exhibit B, pp. 6-7).
7. On April 24, 2017, Petitioner submitted (i) a “Corporate Entity Details” screen from the Department of Licensing and Regulatory Affairs (LARA) website showing that [REDACTED] was dissolved on July 15, 2003 and (ii) unfiled Articles of Incorporation showing a resident alien with the same name as Petitioner, which Petitioner indicated in writing was her aunt, and an address, which Petitioner indicated was her aunt’s address (Exhibits H and I, pp. 17-19).
8. On April 24, 2017, the Department received Petitioner’s request for hearing disputing the Department’s actions concerning her FAP and MA cases.

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.

Petitioner requested a hearing concerning the closure of her FAP and MA cases. The Department responded to Petitioner's FAP issue but did not address her MA issue. The OIG's FEE investigation report indicates that Petitioner's MA case would close if Petitioner did not provide written verifications concerning her interests in the jewelry and towing businesses. Because the Department did not address Petitioner's MA issue at the hearing, it has failed to satisfy its burden of showing that it acted in accordance with Department policy in closing her MA cases.

The Department testified that it closed Petitioner's FAP case because she failed to verify her interest in [REDACTED]. Because Petitioner had reported expenses in excess of her income, OIG conducted a FEE investigation to assess if Petitioner had unreported resources. During the course of the investigation, OIG ran a CLEAR report showing that two businesses, [REDACTED] [REDACTED] were registered to Petitioner. Petitioner explained that the businesses were owned by her aunt, who shared Petitioner's name, and her uncle. Subsequently, the Department sent Petitioner a VCL requesting verification of Petitioner's self-employment income and stating in the "comments" section that it was also seeking the aunt and uncle's tax records or signed written statement concerning the businesses.

Petitioner testified that she provided copies of her tax returns as listed on the requested proof the VCL asked her to submit but was advised that she needed to additionally provide her aunt and uncle's tax return or a written statement. She explained that, at the time the VCL was sent to her, she was having family issues and she and her aunt and uncle were not speaking to one another. Consequently, she was not able to get any documentation from them. She further testified that she told her worker about these issues. Although she was not able to clearly indicate when she advised her worker that she was having difficulty getting the information, it is clear that she made many attempts to avoid the closure of her FAP case but was not able to obtain the information the Department sought. On April 24, 2017, she provided a screen printout from the LARA website showing that [REDACTED] had automatically dissolved in 2003. A review of the LARA website for [REDACTED] [REDACTED] that that business automatically dissolved in 2012. These documents are accessible to the Department. See http://www.dleg.state.mi.us/bcs_corp/dt_corp.asp?id_nbr=01390M&name_entity=ROADWAY%20TOWING%20INC.

While clients must obtain required verification, the local office must assist if they need and request help. BAM 130 (April 2017), p. 3. Further, the Department may make a collateral contact with a person to verify information from the client when documentation is not available or when available evidence needs clarification. BAM 130, p. 2. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department must use the best available information, and if **no** evidence is available, the worker must use her best judgment. BAM 130, p. 3.

In this case, Petitioner attempted to obtain the requested documents from her aunt and uncle and made the Department aware that she was having difficulty. Under the circumstances presented, the Department did not act in accordance with Department policy when it failed to assist Petitioner or attempt a collateral contact with her aunt and uncle to verify the information she provided. Therefore, the Department did not act in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

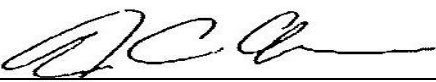
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP case and failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA cases.

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 MA cases for any group members for the date of closure;
2. Provide Petitioner's MA group members with MA coverage that they are eligible to receive from the date of closure ongoing;
3. Reinstate Petitioner's FAP case effective May 1, 2017;
4. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from May 1, 2017 ongoing; and
5. Notify Petitioner in writing of its FAP decision.

AE/tm



Alice C. Elkin
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]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]