



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: June 30, 2017
MAHS Docket No.: 17-006729
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; 42 CFR 438.400 to 438.424; 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 22, 2017, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and Hearing Coordinator (ESHC).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-30.

ISSUE

Did the Department properly re-determine Food Assistance Program (FAP) and Medical Assistance (MA) eligibility for Petitioner's family??

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's family was receiving FAP with a monthly allotment of \$ [REDACTED]. (Department Hearing Summary)
2. Petitioner and her family, were also receiving MA benefits. (Petitioner and ESHC Testimony)

3. On March 13, 2017, Petitioner submitted a Redetermination form, in part reporting a correction with the child support for the child she is the Legal Guardian of. (Exhibit A, pp. 8-15)
4. On April 26, 2017, the Department issued a Verification Checklist requesting verifications of Savings Account/Christmas Club Account; Home Rent; and Checking Account. There was nothing on the Verification Checklist specifying information was needed regarding any specific bank or financial institution. The due date was May 8, 2017. (Exhibit A, pp. 16-17)
5. On May 5, 2017, the Department received: multiple bank statements, a verification of employment, a change report, an unspecified written statement, and another unspecified document. (Exhibit A, pp. 26-27)
6. The change report let the Department know that Petitioner's unemployment benefits stopped and wages started. (ESHHC Testimony)
7. On May 8, 2017, the Department received a lease. (Exhibit A, p. 26)
8. On May 9, 2017, a Health Care Coverage Determination Notice was issued to Petitioner stating she was not eligible because of excess assets; a failure to verify requested information; and not meeting the requirements for any of listed eligibility categories. (Exhibit A, pp. 18-22)
9. On May 9, 2017, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective June 1, 2017, for all persons in the group because net income exceeds the limit for this program and verification of bank account checking was not returned for Petitioner. The Budget Summary included on this notice, in part, indicates unearned income of \$ [REDACTED] was counted in determining the FAP eligibility. (Exhibit A, pp. 6-7)
10. On May 12, 2017, Petitioner filed a hearing request contesting the Department's actions. (Exhibit A, pp. 3-7)

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).

MA

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.

Shortly after the hearing commenced, it was confirmed that the MA issue was resolved with the processing of Petitioner's re-application for MA benefits. Petitioner withdrew the MA portion of her hearing request of the record. Accordingly, the MA portion of this appeal will be dismissed.

FAP

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.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. 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, April 1, 2017, pp. 1-3 and 7.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. A non-categorically eligible, non-(SDV) FAP group must have income below the gross and net income limits. BEM 550, January 1, 2017, p. 1.

In calculating the FAP budget, the Department considers unearned income, which includes child support and unemployment benefits. BEM 503, April 1, 2017, pp. 6-9 and 34-35)

In this case, the May 9, 2017, Notice of Case Action states the FAP case will close effective June 1, 2017, for all persons in the group because net income exceeds the limit for this program and verification of bank account checking was not returned for Petitioner. (Exhibit A, pp. 6-7)

While no copy of the actual FAP budget relevant for the May 9, 2017, determination was submitted for the hearing record, the Notice of Case Action does include a Budget Summary. In part, the Budget Summary shows unearned income of [REDACTED] was

counted in determining the FAP eligibility. (Exhibit A, p. 7) The available evidence indicates that the unearned income figure of \$█,█.█ is incorrect. The verifications submitted on May 5, 2017, included a change report. (Exhibit A, p. 26) The change report let the Department know that Petitioner's unemployment benefits stopped and wages started. (ESHC Testimony) The Budget Summary shows that earned income (wages) of █ were considered in the FAP budget for this determination. (Exhibit A, p. 7) Petitioner credibly testified that \$█ for unearned income in the Budget Summary appears to be the total of both the child support and the unemployment benefits she previously received. Petitioner asserted the child support is only about \$█. (Petitioner Testimony) This is more consistent with the unearned income amount of \$█ in the July 1, 2017, FAP budget, which was submitted for this hearing record. (Exhibit A, p. 29) Overall, the closure of Petitioner's FAP case based on exceeding the net income limit is not supported by the evidence in this case.

While the May 9, 2017, Notice of Case Action indicates a failure to provide requested verification(s) of bank checking account(s) was a reason for the closure of the FAP case, the ESHC testified that in reviewing Bridges, there is nothing entered showing a failure to provide verification was the reason for the FAP closure. (Exhibit A, pp. 6-7; ESHC Testimony) The testimony of Petitioner and the ESHC indicated that the bank account verification at issue was related to old accounts found in Petitioner's case record with the Department. (Petitioner and ESHC Testimony) It is noted that on the April 26, 2017, Verification Checklist issued by the Department there was nothing specifying information was needed regarding any specific bank or financial institution. Accordingly, it appears that Petitioner made a reasonable effort to comply with the verification request by providing multiple bank statements from the current banking accounts on May 5, 2017, three days prior to the May 8, 2017, due date. It does not appear that the Department ever made a clear request for verification regarding the account(s) found within the older case record, such as a written statement from the bank or financial institution that the account(s) had closed. (Exhibit A, pp. 16-17 and 26-27) Overall, the closure of Petitioner's FAP case based on an alleged failure to provide verification of bank account checking is also not supported by the evidence in this case.

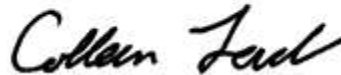
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP case effective June 1, 2017.

DECISION AND ORDER

Accordingly, the MA portion of Petitioner's hearing request is **DISMISSED** and the Department's decision is **REVERSED** with respect to the May 9, 2017, determination to close the FAP case effective June 1, 2017.

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:

Re-determine FAP eligibility retroactive to the June 1, 2017, effective date in accordance with Department policy. This would include issuing written notice of the determination in accordance with Department policy and supplementing for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified, in accordance with Department policy.



CL/db

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

DHHS

[REDACTED]

Petitioner

[REDACTED]