



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: July 18, 2017
MAHS Docket No.: 17-007800
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 July 12, 2017, from Lansing, Michigan. Petitioner appeared and represented herself. [REDACTED] Substitute Hearing Facilitator (H.F.)/Eligibility Specialist (E.S.), appeared on behalf of the Department of Health and Human Services (Department). [REDACTED] Eligibility Specialist (E.S.), testified as a witness for the Department.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case due to failure to comply with the 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. Petitioner was actively receiving FAP benefits with a group size of 2 (Petitioner and her then 3-year-old son). [Department's Exhibit A, pp. 1-15].
2. On April 5, 2017, Petitioner submitted an online assistance application seeking health care coverage. On the application, Petitioner listed herself, her 3-year-old son, [REDACTED] (an adult male), and [REDACTED] 10-year-old son. [Dept. Exh. A, pp. 1-15].

3. Because Petitioner added [REDACTED] and [REDACTED] son to her household, the Department required additional information about the household for FAP purposes. [Dept. Exh. 1, pp. B].
4. On April 11, 2017, the Department mailed Petitioner a Verification Checklist (DHS-3503), which requested verification of the following from [REDACTED]: savings account, bank statements, asset information, wages, employment and/or loss of employment documentation, and requested the following from Petitioner: wages, employment, loss of employment, heat expense, home rent, and non-heat electric expense. The verifications were due by April 21, 2017. [Dept. Exh. B, pp. 1-2].
5. On April 14, 2017, Petitioner hand-delivered to the Department a copy of her lease (Apartment or House Rental Agreement), which indicated that she had a \$[REDACTED] monthly rental obligation and that Petitioner was responsible to pay for utilities (including gas, electric, and water). [Dept. Exh. C, pp. 1-3].
6. With the exception of the lease which included the utility expenses, the Department did not receive any of the other requested verifications before the April 21, 2017, due date. [Dept. Exh. B].
7. On April 21, 2017, Petitioner called her caseworker ([REDACTED], E.S.) and requested an extension of time to provide the verifications due to a death in the family. [REDACTED] granted her request for an extension and allowed her to send the remaining verifications by April 28, 2017. [Petitioner's Hearing Testimony].
8. On April 21, 2017, the Department mailed Petitioner the following: (1) a blank Verification of Employment form (DHS-38) for Petitioner re: [REDACTED]; (2) a blank Verification of Employment form (DHS-38) for [REDACTED] re: [REDACTED]; and (3) a blank Verification of Employment form (DHS-38) for Petitioner re: Efulfillment. All of the above DHS-38 forms were due by May 8, 2017. [Dept. Exh. D, pp. 1-6].
9. On April 28, 2017, Petitioner hand-delivered the Department a copy of the following: a water, sewage & garbage bill, electric bills, a savings account statement for [REDACTED] and a verification of deposit regarding an account for [REDACTED]. [Dept. Exh. E, pp. 1-6].
10. The Department did not receive employment verifications or loss of employment verifications from Petitioner concerning Petitioner or [REDACTED] before the May 8, 2017, due date. [Dept. Exh. E].
11. On May 3, 2017, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which, among other things, closed Petitioner's FAP case effective June 1, 2017, due to failure to provide all requested verifications. [Dept. Exh. F, pp. 1-6].
12. Petitioner requested a hearing to dispute the Department action on June 2, 2017. [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 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.

In the instant matter, Petitioner requested a hearing because the Department closed her FAP case due to failure to return all requested verifications. During the hearing, Petitioner argued that she emailed her paycheck stubs to her caseworker, [REDACTED], on April 28, 2017. The Department contends that Petitioner did not provide the requested verifications, but instead sent [REDACTED] an email with a link to her employer's website which required a login name and password. [REDACTED] stated that she was unable to open the website to obtain Petitioner's employment information because Petitioner did not provide the login and password.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The key question is whether the Department properly closed Petitioner's FAP case because she failed to comply with the verification requests.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. The Department will obtain verification when: (1) required by policy¹; (2) required as a local office option²; or (3) Information regarding an

¹ Bridges Eligibility Manual (BEM) items and MAGI policy specify which factors and under what circumstances verification is required.

eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM 130, (4-1-2017) p. 1.

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. The Department often uses the DHS-3503, Verification Checklist (VCL) to request verification. BAM 130, p. 3.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, [the Department worker should] use the best available information. If **no** evidence is available, [the Department worker should] use your best judgment. BAM 130, p. 3.

Verifications are considered to be timely if received by the date they are due. BAM 130, p. 10.

For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 8.

The Department will send a case action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed. See BAM 130, p. 8.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that Petitioner's contention that she emailed the check stubs to her caseworker before the due date is not credible. The record shows that Petitioner, at best, emailed her caseworker a link that required login information, but failed to provide the caseworker with the login information. Only the Petitioner has this information. The Department caseworker could not reasonably be expected to have it. In this regard, it is the Petitioner, and not the caseworker, who is responsible to obtain the login and password to access Petitioner's online wage and/or employment verification information. Petitioner cannot shift this responsibility onto the Department.

Here, the Department clearly requested verifications from Petitioner concerning wages and/or employment information from Petitioner and her new adult household member, [REDACTED]. The record also shows that Petitioner did not send, mail, or deliver all requested verifications to the Department before the May 8, 2017, due date. Petitioner's contentions that she emailed any remaining verifications is not credible and is inconsistent with the record evidence in this matter. The Department properly sent the notice of case action which closed Petitioner's FAP case because the time period for verifications had elapsed. See BAM 130, p. 8.

² The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for Medicaid Assistance (MA).

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 FAP case.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/md



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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]