RICK SNYDER GOVERNOR

STATE OF MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON DIRECTOR

Date Mailed: September 22, 2017
MAHS Docket No.:
Agency No.:
Petitioner:

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 September 19, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by _______, Eligibility Specialist and _______, Assistance Payments Supervisor.

ISSUE

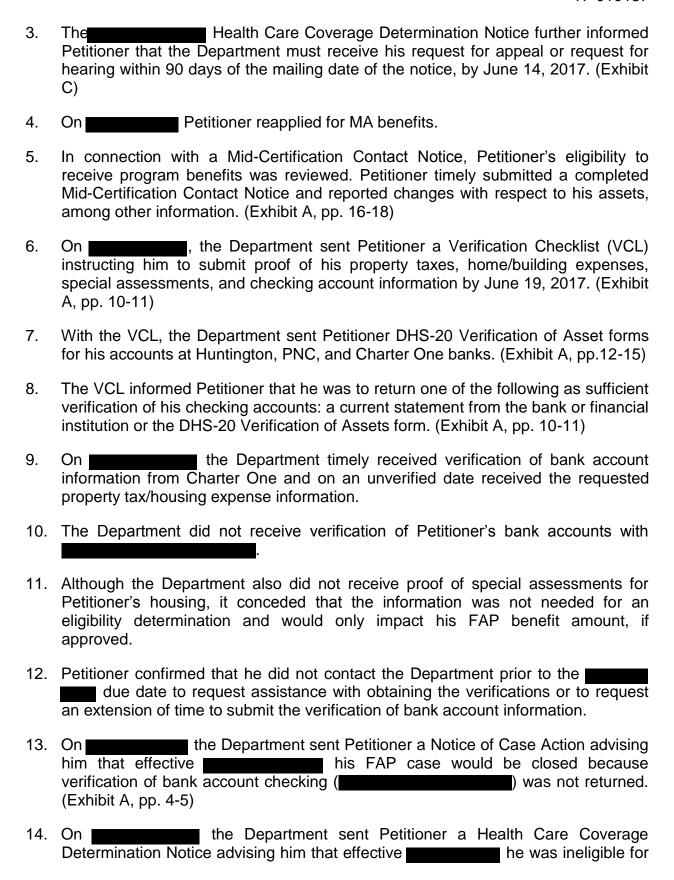
Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

Did the Department properly close Petitioner's Medical Assistance (MA) case and deny his subsequent application for MA benefits?

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 and MA benefits under the Healthy Michigan Plan (HMP) category. (Exhibit B)
- 2. On the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective his MA case would be closed on the basis that he failed to return a supplemental questionnaire. The Health Care Coverage Determination Notice also advised Petitioner that he was no longer eligible for MA under the HMP because he is eligible for or enrolled in Medicare. (Exhibit C)



MA benefits on the basis that he failed to provide verification of bank account checking information within the specified timeframe. (Exhibit A, pp. 2-3)

15. On Petitioner requested a hearing disputing the Department's actions with respect to his FAP and MA benefits, asserting that the he provided the banks with the forms to complete and return to the Department. (Exhibit A, pp. 19-20)

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.

Department policy provides that a client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (April 2017), p. 2. Moreover, a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, p. 6. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided; delay of any action beyond the standards of promptness; or for FAP only, the current level of benefits or denial of expedited service. BAM 600, pp.4-5.

In this case, the evidence established that Petitioner had been an ongoing recipient of MA benefits under the HMP and that on the Department sent him a Health Care Coverage Determination Notice (Notice) advising him that effective April 1,

2017 his MA case would be closed due to a failure to return a supplemental questionnaire. The Notice further informed Petitioner that he was found ineligible for continued HMP benefits, as he was enrolled in or eligible for Medicare. (Exhibit C). Petitioner confirmed receiving the case closure notice. Petitioner did not file a hearing request to dispute the Department's actions until . There was no evidence presented that Petitioner submitted a hearing request prior to this date and no evidence that the Department sent Petitioner any other eligibility notices regarding his MA case after and prior to the notice referenced above. Therefore, based on the evidence presented, because Petitioner's hearing request was not timely filed within 90 days of the Health Care Coverage Determination Notice, the hearing request regarding the closure of Petitioner's MA case effective sis DISMISSED for lack of jurisdiction.

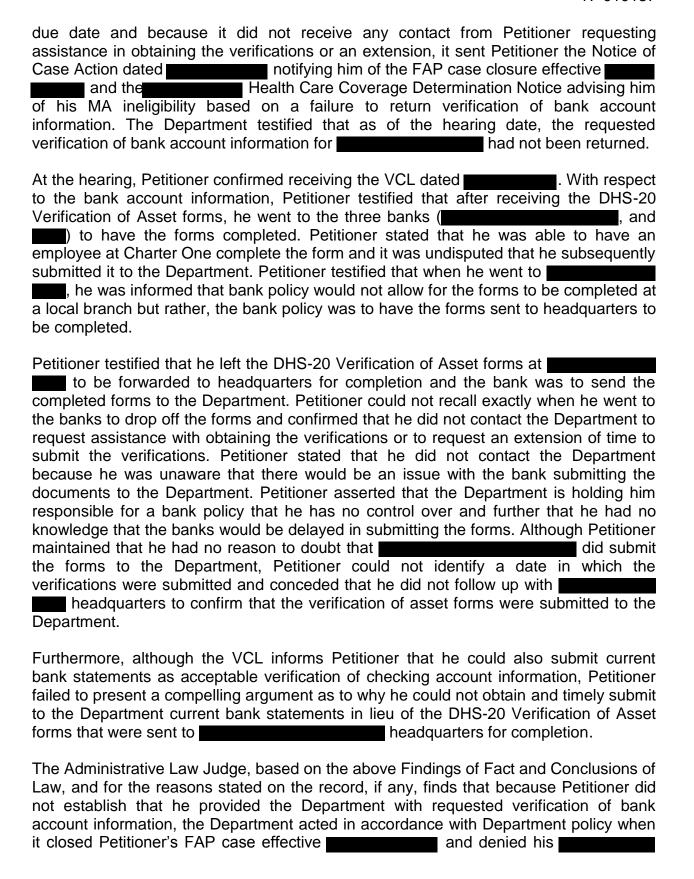
The evidence further established that Petitioner reapplied for MA benefits on June 2, 2017 and during this same period, his FAP case was due for review. In connection with the MA application and Mid-Certification Contact Notice, the Department requested that Petitioner submit verifications needed to determine his eligibility for FAP and MA benefits.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, pp. 3-4.

For FAP cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-8. The Department sends a negative action notice when the client indicates a 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, pp. 7-8.

For MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

At the hearing, the Department testified that although it timely received some of the verifications requested in the VCL, because it did not receive verification of bank account checking information from



MA application. Petitioner is informed that he is entitled to submit a new application for FAP and MA benefits to have his eligibility determined.

DECISION AND ORDER

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

ZB/tlf

Laurab Raydoun

Zainab A. Baydoun

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

Via Email:	
Petitioner – Via First-Class Mail:	