



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 3, 2017
MAHS Docket No.: 17-011004
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 27, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Colleen Corey, Assistance Payments Supervisor, and Orlando Curry, Assistance Payments Worker. The Department was also present with Abby Koenigsknechp who was observing only.

ISSUES

1. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?
2. Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

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 FAP and FIP recipient.
2. On May 9, 2017, Petitioner was sent a Verification Checklist (VCL) requesting verification of her earned income from employment.
3. On May 19, 2017, Petitioner submitted two earnings statements.

4. On May 26, 2017, Petitioner was sent a Notice of Case action notifying her that her FAP and FIP benefits cases were being closed, effective July 1, 2017, ongoing, due to her failure to submit verification of earned income (Exhibit A). Petitioner was also informed that her FIP benefit case would remain closed due to a penalty.
5. On August 9, 2017, Petitioner requested a hearing to dispute the Department's actions regarding her FIP and FAP 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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Department testified that Petitioner applied for Child Development and Care (CDC) program benefits on an unknown date. Per the Department's case comments, a phone interview was conducted with Petitioner on [REDACTED], 2017, pursuant to the application for CDC benefits (Exhibit D). During the interview Petitioner indicated that her employment status had changed.

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. For FIP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. Petitioner was sent a VCL on May 9, 2017, requesting verification of her wages. Proofs were due by May 19, 2017.

The Department presented Petitioner's Electronic Case File (ECF) which showed that Petitioner submitted two documents that were classified as check stubs or earning statements on May 19, 2017, (Exhibit C). The Department testified that the pay statements that were produced by Petitioner were insufficient to verify her income. As a result, the Department sent Petitioner a Notice of Case Action on May 26, 2017, indicating that her FIP benefit case was being closed effective July 1, 2017, ongoing, due to her failure to timely submit verification of her earnings from employment.

For FIP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. 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, p. 7.

The Department did not produce all of the documents that were submitted by Petitioner on May 19, 2017. It is evident from the ECF that the Petitioner submitted multiple documents on May 19, 2017. The Department provided insufficient evidence to establish that Petitioner failed to submit the requisite verifications that resulted in her FIP case closure. Therefore, the Department failed to establish that it acted in accordance with policy when closing Petitioner's FIP benefit case for the failure to submit requested verifications.

Also in the Notice of Case Action that was sent to Petitioner on May 26, 2017, the Department informed Petitioner that she would be subject to a penalty. The Department testified that Petitioner was penalized because she had quit a job. Petitioner confirmed that she had resigned a position with [REDACTED] in May 2017.

For individuals receiving FIP benefits, the Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Penalties include case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p. 1. Noncompliance includes quitting a job. BEM 233A, p. 3.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. On the night that the client is placed into triage activity, the Department will send the client a noncooperation notice. BEM 233A, p. 11. The notice must include the name of the noncompliant individual, the date of the initial noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the date of the scheduled triage appointment, which is to be held within the negative action period. BEM 233A, pp. 11-12. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties.

The Department testified a triage meeting was scheduled on [REDACTED] 2017, at which Petitioner did not appear. However, the Department did not present the notice of noncompliance or any information pertaining to the notice that provided Petitioner with the required information. Additionally, the Department notified Petitioner in the Notice of Case Action that she was subject to a 6-month penalty, as well as a 3-month penalty. Therefore, the Department failed to present sufficient evidence that it complied with policy when closing Petitioner's FIP case and subjecting her to a penalty.

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 this case, the Department testified that it closed Petitioner's FAP benefit case for the same verification issues that resulted in the closure of Petitioner's FIP benefit case. 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 VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. 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, p. 7. As stated above, the Department did not provide sufficient evidence to show that Petitioner failed to submit the required verifications. Therefore, the Department failed to show that it acted in accordance with policy when it closed Petitioner's FAP benefit case.

DECISION AND ORDER

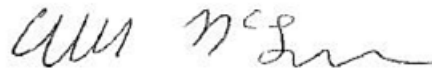
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP and FIP benefit 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. Redetermine Petitioner's FAP and FIP eligibility as of July 1, 2017, ongoing;

2. If Petitioner is eligible for FAP and/or FIP benefits, issue supplements to Petitioner for any FAP and/or FIP benefits that she was eligible to receive but did not from July 1, 2017, ongoing;
3. Remove all employment-related noncompliance penalties from Petitioner's FIP benefit case on or about July 1, 2017.
4. Notify Petitioner of its FAP and FIP decision in writing.



EM/jaf

Ellen McLemore
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

MDHHS-Oakland-4-Hearings

Petitioner



BSC4
M Holden
D Sweeney
D Shaw
B Cabanaw
E McLemore
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