



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: November 17, 2017  
MAHS Docket No.: 17-012603  
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 November 15, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Eligibility Specialist and Hearing Facilitator.

### **ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) 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 Food Assistance Program (FAP) and MA recipient.
2. On April 24, 2017, the Department sent Petitioner a New Hire Client Notice.
3. On May 2, 2017, the Department sent Petitioner a Verification of Employment Form (Exhibit C).
4. On May 30, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective July 1, 2017, ongoing.

5. On June 9, 2017, Petitioner submitted the completed New Hire Client Notice and a copy of her 2016 W2 from her employment with [REDACTED] (Exhibit B).
6. On August 8, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective September 1, 2017, ongoing, for her failure to return employment verification (Exhibit A).
7. On September 22, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding her MA and FAP benefit 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).

#### **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.

Petitioner's hearing request was submitted, in part, to dispute the Department's actions regarding the closure of her FAP benefit case. The Department sent Petitioner a Notice of Case Action on May 30, 2017, informing Petitioner that her FAP benefit case would close effective July 1, 2017, ongoing. Before the substance of the dispute can be examined, it must be determined if Petitioner's hearing request was timely.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

Petitioner submitted a hearing request to the Department's action regarding her FAP benefit case on September 22, 2017. The request was submitted more than 90 days after the Department issued written notice of the closure of her FAP benefit case. Thus, Petitioner's hearing request is untimely.

Petitioner's hearing request with respect to her FAP benefits was not timely filed within 90 days of notice and is, therefore, **DISMISSED** for lack of jurisdiction.

## 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.

In this case, the Department received a New Hire Match which indicated Petitioner was employed with [REDACTED]. On April 24, 2017, the Department sent Petitioner a New Client Hire Notice regarding her employment with [REDACTED]. The form was due by May 4, 2017.

When the Department receives a New Hire Match, it will request verification from the client by sending a DHS-4635 New Hire Client Notice. BAM 807 (April 2017), p. 1. The Department allows 10 calendar days to provide the verification from the date the forms were requested. BAM 807, p. 2. If verifications are not returned by the 10th day, a negative case action will be sent notifying the client of the closure of their benefit case.

On May 2, 2017, Petitioner spoke with the Department regarding the verification of her employment. Petitioner advised the Department she was no longer employed with [REDACTED]. As a result, the Department sent Petitioner a Verification of Employment form for her to complete to verify her employment.

The Department testified it received the completed New Hire Client Notice from Petitioner on June 9, 2017, not the Verification of Employment form. In the New Hire Client Notice form, Petitioner indicated she was no longer employed with [REDACTED] and not been employed since November 30, 2016. Along with the form, Petitioner included a copy of her W2 from 2016.

The Department testified the W2 Petitioner submitted was insufficient to verify Petitioner's income/employment. As a result, the Department sent Petitioner a Health Care Coverage Determination Notice on August 8, 2017, informing Petitioner that her MA benefit case was being closed effective September 1, 2017, ongoing for her failure to provide proof of employment.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. The Department must verify all non-excluded income when program policy requires a change to be budgeted. BEM 500 (July 2017), p. 14. For many programs, the Department must verify income

that decreases or stops. BEM 500, p. 14. However, MA benefit cases are not included as a type of program where verification is required if income stops. Additionally, the Department conceded that verification is not necessary in MA cases when employment ends. Therefore, the Department did not follow policy when it closed Petitioner's MA case for her failure to verify that her employment with [REDACTED] ended.

### **DECISION AND ORDER**

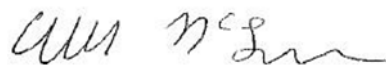
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA benefit case.

Accordingly, the Department's decision regarding Petitioner's MA case is **REVERSED**.

Petitioner's request for hearing regarding her FAP benefits is **DISMISSED**.

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 MA eligibility as of September 1, 2017, ongoing;
2. Provide Petitioner with MA coverage she is eligible to receive as of September 1, 2017, ongoing; and
3. Notify Petitioner of its MA decision in writing.



EM/

---

**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-Macomb-12-Hearings

**Petitioner**



BSC4  
M Holden  
D Sweeney  
M Best  
EQAD  
E McLemore  
MAHS