



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 2, 2018
MAHS Docket No.: 17-015695
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 31, 2018, from Detroit, Michigan. Petitioner appeared via 3-way telephone conference and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Worker/Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective November 1, 2017?

Did the Department properly close Petitioner's Medical Assistance, or Medicaid (MA), case effective December 1, 2017?

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 MA.
2. On October 11, 2017, Petitioner applied for FAP benefits, indicating that she was no longer employed with MDAHS (Employer) (Exhibit B).
3. On October 12, 2017, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for expediated FAP benefits of [REDACTED] for the

period October 11, 2017 to October 31, 2017 but in order to receive continued FAP benefits beyond the expedited benefit period she would be required to provide the information requested on a Verification Checklist (VCL) sent to her separately (Exhibit E).

4. On October 12, 2017, the Department sent Petitioner a VCL requesting verification by October 23, 2017 of a donation/contribution she received from an individual outside her group (Exhibit F).
5. On October 17, 2017, the Department sent Petitioner a second VCL requesting verification of her last 30 days' employment income as well as her loss of employment by October 27, 2017 (Exhibit G).
6. On October 17, 2017, Petitioner submitted a copy of her paystub for Employer (Exhibit H).
7. On October 20, 2017, Petitioner's worker sent Petitioner a Quick Note advising her that some of her documents were not legible and asking that she submit proof by October 27, 2017 of her loss of employment, proof of donation/contribution, and her last/only paycheck (Exhibit I).
8. On October 24, 2017, the Department received a letter from Petitioner's sister indicating that she provided financial assistance to Petitioner on a monthly basis (Exhibit J).
9. On October 30, 2017, the Department sent Petitioner (i) a Notice of Case Action notifying her that her FAP case was closing effective November 1, 2017 because she failed to return verification of loss of employment and earned income payment and (ii) a Health Care Coverage Determination Notice notifying her that her MA case was closing effective December 1, 2017 because she was "not under 21, pregnant, or a caretaker of a minor child in [her] home not over 65 (aged), blind, or disabled." The Health Care Coverage Determination Notice indicated that the Department was budgeting income of ■. (Exhibits M and N.)
10. On November 2, 2017, the Department received a letter from Petitioner explaining that she had only worked for Employer for a few days when she could no longer continue employment because she lost her transportation and enclosing her last two paystubs. She provided a number for Employer and the subcontractor Employer sent her to. (Exhibit K.)
11. On November 27, 2017, the Department received Petitioner's request for hearing disputing the closure of her FAP and MA 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).

Petitioner disputed the closure of her FAP and MA cases.

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.

The Department explained that, after Petitioner submitted a FAP application October 11, 2017, she was approved for expedited FAP benefits for October 11, 2017 to October 31, 2017 subject to providing additional requested verifications. FAP applicants are eligible for expedited service if they provide minimum required verifications. BAM 117 (July 2014), pp. 1-3. FAP groups that do not provide all additional required verifications are not issued benefits for subsequent months until they provide the waived verification or complete a redetermination. BAM 117, p. 5. If the client fails to verify requested information by the 10th day following the request (or by the extended date, if granted), the benefit period will expire at the end of the expedited month unless the verification is returned within 30 days of the date of the application in which case the application is subject to subsequent processing. BAM 117, p. 5. If the verifications are returned between 31 and 60 days after the application was filed, the Department reregisters the application using the date the client completed the process, and if the client is eligible, the Department prorates benefits from the date the client complied. BAM 115 (January 2015), p. 23.

In this case, the October 12, 2017 Notice of Case Action sent to Petitioner approving her application notified her that she was approved for FAP benefits for the period October 11, 2017 to October 31, 2017 and FAP benefits after October 31, 2017 would be subject to her providing requested verifications. The Department also presented an October 17, 2017 VCL showing that it requested verification of Petitioner's loss of employment.

At the hearing, Petitioner testified that she informed her worker at the time of her interview that she believed she would have difficulty obtaining verification of her loss of employment from Employer. After she received a Quick Note from her worker on

October 20, 2017 notifying her that she needed to provide verification of her loss of employment, she faxed the DHS-38 to the Employer and verified from Employer that it was received. However, Petitioner admitted that she did not contact her worker to advise her that Employer was not being cooperative or that she needed assistance. The Department is required to provide assistance in obtaining verifications to a client who requests assistance prior to the VCL due date. BAM 130 (April 2017), p. 7. In this case, the letter from Petitioner received by the Department on November 2, 2017 was received after the VCL due date and did not clearly request assistance. Thus, Petitioner did not request assistance from her worker prior to the VCL due date. Under these circumstances, the Department acted in accordance with Department policy when it closed Petitioner's FAP case.

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.

The October 30, 2017 Health Care Coverage Determination Notice notified Petitioner that her MA case was closing effective December 1, 2017 because she was "not under 21, pregnant, or a caretaker of a minor child in [her] home not over 65 (aged), blind, or disabled." The Notice also indicated that the Department was budgeting income of [REDACTED]

The Department's eligibility summary showed that Petitioner's MA coverage under the Healthy Michigan Plan (HMP) closed as of December 1, 2017 (Exhibit L). HMP is a Modified Adjusted Gross Income (MAGI)-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the MAGI methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (October 2016), p. 1.

None of the reasons shown on the Notice support the Department's action in closing Petitioner's MA case. Although the Department explained that Petitioner's MA case likely closed because of her failure to verify her loss of employment, Department policy requires that the notice sent to a client must specify the reason for the Department's action. BAM 220 (October 2017), p. 2. Furthermore, the Department never requested verification of loss of employment with respect to Petitioner's MA case: the October 17, 2017 VCL requested information concerning Petitioner's eligibility for FAP. Therefore, Petitioner was not put on notice that her MA case could potentially close. Further, the letter Petitioner sent that the Department received on November 2, 2017, prior to the

December 1, 2017 closure of Petitioner's MA case, identified telephone numbers for Employer that could have been used to collaterally contact Employer. See BAM 130, p. 3. Under the circumstances presented in this case, where Petitioner was not notified that her failure to provide verification of loss of employment would result in the closure of her MA case and where the Health Care Coverage Determination Notice did not notify her that the failure to verify had resulted in the closure of her case, the Department did not act in accordance with Department policy in closing Petitioner's MA 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 acted in accordance with Department policy when it closed Petitioner's FAP case but did not act in accordance with Department policy when it closed her MA case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to closure of Petitioner's FAP case and **REVERSED IN PART** with respect to closure of her MA case.

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. Reprocess Petitioner's MA eligibility from December 1, 2017 ongoing;
2. If Petitioner is eligible for MA, provide her with MA coverage she is eligible to receive from December 1, 2017 ongoing; and
3. Notify Petitioner in writing of its decision.



AE/tm

Alice C. Elkin
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]
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[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]