



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 16, 2018
MAHS Docket No.: 18-000757
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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, an in-person hearing was held on April 11, 2018, from Pontiac, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly reduce Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) 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 is a recipient of both FIP and FAP benefits.
2. On December 14, 2017, an in-person hearing was held from Pontiac, Michigan before Administrative Law Judge Jacquelyn McClinton (ALJ) in Michigan Administrative Hearing System Docket Number 17-014856.
3. The issue in the case was Petitioner's ability to verify her son's identity and their relationship; Petitioner has had difficulty obtaining a Birth Certificate and Social Security card for her son because of complications at the time of his birth.
4. On December 15, 2017, ALJ issued a decision and order in docket number 17-014856 Reversing the Department's decision and ordering the Department to reinstate Petitioner's FIP benefits effective September 1, 2017; issue supplements

that Petitioner was eligible to receive but did not; and to notify Petitioner in writing of its decision.

5. On December 20, 2017, the Department issued a Notice of Case Action holding that Petitioner was denied State Disability Assistance effective March 1, 2017, and her FAP benefits were decreased to \$ [REDACTED] per month because no social security number had been provided for her son effective February 1, 2018.
6. On the same day, a Verification Checklist was issued for the Medicaid, FAP, and Cash programs (presumably FIP in this situation but the record is unclear) requesting proofs of her son's Social Security Number or an application for a Social Security Number with proofs due back by January 2, 2018.
7. As of December 22, 2017, Petitioner's FIP group size was three because of the exclusion of her son based upon the lack of a Social Security Number.
8. On January 2, 2018, Petitioner requested an extension of time to obtain the requested verifications.
9. On January 16, 2018, Petitioner requested a hearing disputing the Department's exclusion of her son in both the FIP and FAP cases resulting in a decreased benefit for both programs.

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 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 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, Petitioner has had repeated problems with her Department cases because of the lack of a Social Security Number for her son. Most recently, the lack of a Social

Security Number has caused her FIP and FAP benefit rates to be reduced because of the reduction in her group size after removal of her son.

After Petitioner gave birth to her son, she was transported to another hospital as a result of complications. While she was undergoing treatment in the second hospital, the first hospital lost the birth certificate for her son and attempted to contact Petitioner. Petitioner could not be reached and was not aware of the problem until after she was released from the second hospital. Unable to reach Petitioner, the first hospital listed Petitioner's son on his birth certificate as Baby Boy. By the time of her release, the first hospital notified Petitioner that it was too late to rectify the problem and she would have to pay to have his birth certificate corrected. Petitioner does not have the financial means to have the birth certificate corrected; therefore, her son is still listed as Baby Boy; and there is no official record of his birth with his name. Since Petitioner is unable to obtain a corrected birth certificate, she is unable to obtain a Social Security card. The Department is aware of the circumstances surrounding her son's birth.

During the hearing for docket number 17-014856, the Department agreed to help Petitioner resolve this problem. After the hearing, a Family Independence Specialist (FIS) referred Petitioner to a legal aid office in an effort to resolve the problem. The legal aid office told Petitioner that they could not help her as this was not a legal problem, but instead a financial problem, and they did not have the means to assist her. The Family Independence Manager (FIM) contacted the policy division of the Department to seek clarification on what the Department staff can and cannot do to assist Petitioner. According to the FIM, the policy division advised that Department staff cannot visit the Social Security office or other facility on behalf of the client to address the problem, staff members do not go offsite in any capacity. But again, the staff's ability to go places with Petitioner is not the concern. Petitioner has a financial problem, not a legal problem, not a transportation problem, nor a communication problem. Therefore, the Department's efforts do not aid in the resolution of the problem.

Verification of certain things is necessary when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

BAM 130 (April 2017), p. 1.

As discussed in the decision in docket number 17-014856, the Department has an obligation to verify the relationship for each dependent child in a FIP case. Verification must establish the relationship of each dependent child to the child's legal parent, step-parent or other qualifying caretaker. BEM 210 (April 2017), p. 14. Verification sources include:

- Birth certificates.
- Michigan Birth Registry Inquiry.
- Adoption records.
- Marriage license/certificate.
- School records.
- Separation records.
- Divorce records.
- Hospital birth records.
- Affidavit of Parentage.
- Child support records.
- Court orders.
- Baptismal records.
- Immigration records.

BEM 210, p. 15. Additionally, verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

In FAP cases, parents and their children **under** 22 years of age who live together **must** be in the same group. BEM 212 (January 2017), p. 1. Children include natural, step, and adopted children. *Id.* Verification of group composition factors is only required if the information given is questionable. BEM 212, p. 10.

In both FIP and FAP cases, the identity of the head of household (grantee) must be verified. BEM 221 (July 2014), p. 1. All group members, as a condition of eligibility, must provide their Social Security Number, cooperate in obtaining a Social Security Number, or be excused from supplying and obtaining a Socialist Security Number. *Id.* In all programs, an individual can be excused by court order from providing and obtaining a Social Security Number. BEM 223, p. 3. There is no evidence of Petitioner having a court order excusing her from this obligation, but it may be one avenue she could pursue. Individuals for whom the grantee refuses to supply a Social Security Number, refuses to cooperate in obtaining one, or refuses to cooperate in resolving errors is disqualified from the receipt of benefits. BEM 223, p. 2.

While Petitioner provided the Department with a copy of her son's school report card in December 2017, the record does not list Petitioner as the mother of her son. Therefore, it does not establish the relationship as required by BEM 210. In addition, Petitioner is still not able to provide the Department with a Social Security Number as required by BEM 223 because she cannot afford the fee to have the birth certificate corrected.

Nothing in this record suggests Petitioner is unwilling or refusing to supply a Social Security Number, refusing to cooperate in obtaining one, or refusing to cooperate in resolving errors. In fact, the opposite is true. The record establishes that Petitioner has actively tried to correct the problem by visiting the Social Security Office three times, providing school records to the Department, and contacting the appropriate people to have the birth certificate corrected.

As noted in the decision for docket number 17-014856, Department policy states that

if neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, the Department is to use its best judgment. BAM 130, p. 3. In this case, neither the client or Department can obtain the verification as a birth certificate with Petitioner's son's actual name does not exist. As such, the Department is required to use the best information or its best judgement.

Petitioner has received benefits for her son since his birth in 2009. The Department has no reason to doubt that Petitioner is being truthful in stating that the child she has been receiving benefits for is her son. Accordingly, it is found that under the circumstances, the best available information is that which has already been provided by Petitioner. Petitioner is able to provide the child's date of birth, the name of the hospital and the circumstance surrounding this missing birth certificate.

The Department argued at the hearing that it could not continue to push Petitioner's case along without the proper verification of her son's identity because of its reporting and auditing obligations as both programs are federally funded. While the Department's position is understandable and accurate, policy does not provide that a disqualification is appropriate here. Petitioner has actively tried to correct the problem. She has kept the Department informed of the circumstances regarding the birth certificate and Social Security card. Neither party can obtain a Social Security card or birth certificate with her son's name on it because it does not exist. She has identified the obstacles in obtaining the Social Security card to the Department. There is no reason to believe that Petitioner is telling the Department anything other than the truth. A disqualification is only appropriate based upon a refusal or unwillingness to provide the Social Security Number. There is no refusal or unwillingness; therefore, there is no basis for the disqualification of her son.

After a review of all of the evidence presented as well as the applicable laws and policy, the Department did not act in accordance with policy when it removed Petitioner's son

from the FIP and FAP cases thereby decreasing Petitioner's benefit rate in both programs.

Finally, it should be noted that at the hearing, the Department suggested that if Petitioner provided an invoice or a receipt for the cost of birth certificate change, the Department might be able to find financial resources to assist with the fee. Petitioner agreed that she would provide some form of documentation to the Department regarding the fee for changes to her son's birth certificate.

DECISION AND ORDER

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. Reinstate Petitioner's FIP benefits effective September 1, 2017, ongoing, in compliance with the decision in docket number 17-014856;
2. Redetermine Petitioner's FIP benefit eligibility effective September 1, 2017, ongoing;
3. If Petitioner remains eligible for FIP benefits, issue supplements Petitioner was eligible to receive but did not from September 1, 2017, ongoing in accordance with Department policy;
4. Redetermine Petitioner's FAP benefit eligibility beginning February 1, 2018, ongoing;
5. If Petitioner remains eligible for FAP benefits after recalculation, issue supplements Petitioner was eligible to receive but did not from February 1, 2018, ongoing in accordance with Department policy; and
6. Notify Petitioner in writing of its decision.

AM/



Amanda M. T. Marler
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]
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Petitioner

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