



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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[REDACTED]
[REDACTED]

Date Mailed: April 27, 2018
MAHS Docket No.: 18-002689
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 19, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kathleen Scorpio-Butina, hearing facilitator, and Kandis Hill, specialist.

ISSUE

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS properly denied Petitioner's application for Child Development and Care (CDC) 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. On January 5, 2018, Petitioner applied for FAP, CDC, and Medical Assistance (MA) benefits.
2. Petitioner's application reported that Petitioner was employed and that she has a savings and checking account.
3. On January 10, 2018, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's last 30 days of income, checking account,

and savings account. The due date for Petitioner to return verification was January 22, 2018.

4. On January 10, 2018, MDHHS approved Petitioner's FAP eligibility for January 2018 and pended future FAP eligibility while awaiting the return of Petitioner's verifications.
5. As of January 23, 2018, MDHHS had not received Petitioner's last 30 days of income or proof of bank accounts.
6. On January 23, 2018, MDHHS denied Petitioner's CDC and FAP application due to Petitioner's failure to verify income, and assets.
7. On January 24, 2018, MDHHS received Petitioner's proof of income from November 17, 2017, through December 8, 2017, a Verification of Employment from Petitioner's employer stating that Petitioner was last paid on December 22, 2017, and an illegible bank account statement.
8. On February 2, 2018, Petitioner reapplied for FAP and CDC benefits.
9. As of an unspecified date, MDHHS deemed Petitioner to be uncooperative with obtaining child support.
10. On February 23, 2018, MDHHS denied Petitioner's FAP application dated February 2, 2018.
11. On March 2, 2018, MDHHS reinstated Petitioner's FAP application dated February 2, 2018,
12. On March 5, 2018, MDHHS denied Petitioner's CDC application due to a failure to cooperate with obtaining child support.
13. On March 6, 2018, Petitioner became cooperative with obtaining child support.
14. On March 8, 2018, Petitioner requested a hearing to dispute the denial of the following: the CDC and FAP applications dated January 5, 2018, the CDC and FAP applications dated February 2, 2018, and a denial of MA benefits. Exhibit A, pp. 76-77.
15. On an unspecified date, MDHHS approved Petitioner's FAP application dated February 2, 2018.
16. Petitioner withdrew her disputes concerning MA benefits and the denial of her CDC application dated January 5, 2018.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of her FAP application dated January 5, 2018. Petitioner actually received FAP benefits for January 2018 in accordance with expedited FAP policy. MDHHS pended Petitioner's subsequent eligibility based on the return of verifications. A Notice of Case Action (Exhibit A, pp. 30-33) dated January 23, 2018, stated that Petitioner's FAP eligibility stopped due to child support non-cooperation and failure to verify information. If either denial reason was proper, then the denial of the application was proper. The analysis will begin with an evaluation of whether Petitioner's application was properly denied due to a failure to verify information.

[For all programs, MDHHS is to tell...] the client what verification is required, how to obtain it, and the due date... BAM 130 (April 2017) p. 3. Use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

[MDHHS is to] [u]se past income to prospect income for the future unless changes are expected...BEM 505 (October 2017) p. 6. Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month... *Id.* The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.*

MDHHS presented a Verification Checklist (Exhibit A, pp. 26-27) dated January 10, 2018. Requested items included verification of Petitioner's last 30 days of employment income, verification of checking account, and verification of savings account. The due date to return the documents was January 22, 2018.

MDHHS acknowledged that Petitioner submitted to MDHHS check stubs dated November 17, 2017, November 24, 2017, December 1, 2017, and December 8, 2017. Exhibit A, pp. 39-42. MDHHS did not accept the check stubs as acceptable verification because they did not verify the 30 days of income before the VCL mailing date of

January 10, 2018. Indeed, none of Petitioner's submitted pays were from the period that income verification was needed.

The evidence indicated that Petitioner works some weeks and not others. Petitioner testified that her submitted pay stubs reflected the last 30 days of income that she received. Petitioner functionally contended that her submission complied with the VCL request based on the pays she received.

MDHHS received a Verification of Employment (Exhibit A, pp. 37-38). The document was completed by Petitioner's employer. The document stated that Petitioner was employed and last received a pay on December 22, 2017. Petitioner's previous pays were not listed.

If Petitioner was last paid on December 22, 2017, Petitioner had one pay check (maybe two if Petitioner was paid on December 15, 2017) she could have submitted to MDHHS that was more current than the pays checks she did submit. Petitioner provided no explanation for failing to submit her most recent 30 days of income.

Based on the evidence, it is found that Petitioner failed to verify her last 30 days of income. Thus, MDHHS properly denied Petitioner's application for FAP benefits dated January 5, 2018.

MDHHS also contended that Petitioner's application was properly denied because some of Petitioner's verifications were illegible. MDHHS presented a copy of a bank account transaction history (Exhibit A, p. 35) submitted by Petitioner to verify bank account information; the document was not legible. The illegibility of the document rendered it to be improper verification of a bank account. This evidence further bolstered that denying Petitioner's application dated January 5, 2018 was proper due to Petitioner's failure to verify assets.

Petitioner also requested a hearing to dispute a denial of her FAP application dated February 2, 2018. MDHHS presented a Notice of Case Action dated February 26, 2018 (Exhibit A, pp. 67-68) which stated that Petitioner's application was denied due to a failure to verify income and/or cooperate with obtaining child support.

MDHHS credibly testified that Petitioner's application was later reinstated and approved. Petitioner did not dispute MDHHS' testimony. Thus, Petitioner's dispute of the denial of her FAP application dated February 26, 2018, appears resolved. Petitioner's hearing request will be dismissed concerning this specific dispute. If Petitioner disputes the amount of her ongoing FAP eligibility, she may separately request a hearing.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request cited a dispute over a denial of MA benefits. Petitioner testified that she wished to withdraw her dispute concerning MA benefits. Based on Petitioner's verbal withdrawal, Petitioner's hearing request will be dismissed concerning her MA dispute.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute two different CDC application denials. First, Petitioner disputed a denial of her CDC application dated January 5, 2018. During the hearing, Petitioner withdrew her dispute concerning the denial of this application. Based on Petitioner's verbal withdrawal, Petitioner's hearing request will be dismissed concerning her dispute over her application dated January 5, 2018.

Petitioner did not withdraw her dispute concerning an alleged denial of a CDC application dated February 2, 2018. MDHHS testimony credibly testified that Petitioner's CDC application was denied on March 5, 2018. During the hearing, it was thought that Petitioner requested a hearing before MDHHS sent a denial notice (generally, clients are not entitled to an administrative hearing remedy when a hearing is requested before MDHHS takes a negative action). As it happened, Petitioner requested a hearing after MDHHS denied her application; thus, an analysis must be undertaken to address the merits of CDC application denial. MDHHS credibly testified that Petitioner's CDC application was denied due to Petitioner's failure to cooperate with child support.

[For CDC benefits,] [t]he custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2018) p. 1. Failure to cooperate without good cause results in disqualification. *Id.*, p. 2. Failure to cooperate without good cause, with Office of Child Support requirements for a child requesting or receiving benefits will result in group ineligibility for CDC. *Id.*, p. 13.

Petitioner brought to the hearing a letter from the Office of Child Support. Petitioner credibly stated that the letter found her to be cooperative with obtaining child support effective March 6, 2018. Petitioner's compliance with child support occurred one day after MDHHS denied her application.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). BAM 220 (January 2018) p. 3. Adequate notice is given... [for] denial of an application. *Id.*

When MDHHS denied Petitioner's CDC application, the denial took immediate effect. Though Petitioner achieved child support cooperation the next day, it was too late to affect the already denied application. It is found that MDHHS properly denied Petitioner's CDC application dated February 2, 2018. Petitioner's recourse is to reapply for CDC benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning a denial of MA benefits and a denial of a CDC application dated January 5, 2018. It is further found that MDHHS resolved Petitioner's dispute of a FAP application denial dated February 23, 2018. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's CDC application dated February 2, 2018, and Petitioner's FAP application dated January 5, 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki

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

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