



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 25, 2018
MAHS Docket No.: 18-002916
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 23, 2018, from [REDACTED] [REDACTED]. The Petitioner was represented by himself. Two Arabic translators, [REDACTED] and [REDACTED] participated during the hearing because one of the translators had to leave before the hearing ended. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA) for failure to complete the redetermination?

Did the Department properly deny the Petitioner application for Food Assistance (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of Medical Assistance.
2. On November 4, 2017 the Department sent the Petitioner a MA redetermination for the month of December 2017 to the Petitioner's address on file with the Department. Exhibit D.

3. The Petitioner did not complete the redetermination for Medical Assistance and the Petitioner's MA case closed in February 2018.
4. The Petitioner applied for Food Assistance on January 23, 2018. The Petitioner listed a new address on the FAP application notifying the Department of his change in address for the first time.
5. The Petitioner provided the Department an expired visa for his daughter, [REDACTED] Exhibit D. On February 22, 2016, the Department sent the Petitioner a Verification Checklist (VCL) on January 23, 2018, which was due February 2, 2018. The VCL requested in Comments [REDACTED] needs to provide proof of citizenship. Exhibit B.
6. The Department issued a Notice of Case Action on February 14, 2018 denying the Petitioner's Food Assistance application as of January 23, 2018 for failure to verify the citizenship or immigration status for his daughter [REDACTED] Exhibit A.
7. The Petitioner submitted a Visa Renewal to the Department on February 22, 2018 which did not provide a picture or printed name of the person whose renewed visa was provided. The document indicated as of 2/20/18 the Visa in question was issued. The document was submitted after the February 2, 2018 VCL due date and did not identify on the document itself whose visa it was. Exhibit C.
8. The Petitioner requested a timely hearing on March 14, 2018 protesting the denial of his Food Assistance application and closure of his medical assistance case.

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 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 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 Petitioner requested a hearing to review the Department's closure of his Medical Assistance for failing to return the annual redetermination. The Petitioner also sought review of the denial of his Food Assistance application for failure to provide proof of citizenship for his daughter by the verification check list due date.

Medical Assistance Closure

The Department closed the Petitioner's Medical Assistance when it did not receive the redetermination that was sent to him on November 4, 2017. Exhibit D. The Department never received a redetermination from the Petitioner. The Department had no record of receiving a redetermination document from the Petitioner. Exhibit F. The Petitioner testified that he never received a redetermination to complete. Apparently, the Petitioner moved to a different address but did not report the change of address to the Department until he filed an application for Food Assistance on January 23, 2018 at which time the new address was available to the Department.

A complete redetermination/renewal is required at least every 12 months. Bridges sets the redetermination/renewal date according to benefit periods. Benefits stop at the end of the benefit period **unless** a renewal is completed **and** a new benefit period is certified. Also, the renewal month is 12 months from the **date the most recent complete application was submitted**. BAM 210, p. 3

Verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due.

Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the tenth day falls on a weekend or holiday, the verification would not be due until the next business day.

MAGI Medicaid beneficiaries have 30 calendar days to return the pre-populated renewal form. BAM 210 (January 2018), p. 16.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date.

Send a case action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. BAM 130 (January 2016), p. 8-9.

Based upon the fact that no redetermination was received by the Department and that the Petitioner failed to provide the Department with his new address as required by Department policy the Department was left with no choice to close the Petitioner's Medical Assistance when no redetermination was returned. The Petitioner was required to provide the Department with his change of address within 10 days of moving and did not do so until January 23, 2018, well after the Department closed his medical assistance case. BAM 105 (January 2018), p. 12.

The Petitioner may reapply for medical assistance at any time.

Food Assistance Application Denial

In this case the Department denied the Petitioner's application for Food Assistance for failure to verify the citizenship or immigration status of his daughter [REDACTED] as requested by the Department's Verification Checklist. After a review of Department policy, it is determined that the Department should have disqualified the Petitioner's daughter due to the fact that the Petitioner was unable to obtain verification or refuses to cooperate in obtaining it. BEM 225 provides:

The alien status of each non-citizen requesting benefits **MUST** be verified.

A person must be a U.S. citizen or have an acceptable alien status for the designated programs. See the CITIZENSHIP/ALIEN STATUS in this item. Persons who do not meet this requirement, **or who refuse to indicate their status**, are disqualified.

Others living with a person disqualified by this requirement can qualify for program benefits. However, the disqualified person's assets and income might have to be considered based on the program(s) requested; see BEM 210, 212 and 550.

For FAP, the Department must disqualify a person who is unable to obtain verification or refuses to cooperate in obtaining it. BEM 225 (July 2017), pp. 1-2.

In this case based upon BEM 225 cited above, the Department was required to process the Petitioner's FAP application without the Petitioner's daughter who should have been disqualified because no proof of her status was provided and the document provided by Petitioner after the due date was insufficient to identify who it related to as there were no other pages of the document provided with a printed name to identify whose visa was provided.

Further, at the hearing the Department did not present evidence of additional verification deficiencies which caused the Petitioner's FAP application to be denied due to failure to provide information and focused on the Petitioner's daughter's lack of verification of citizenship or alien status and did not further explain any other reason for denial of the application.

The February 14, 2018 Notice of Case Action also identifies as a reason for the actions (FAP denial) as:

Verification of alien status undeclared, BEM 225, Residential Address (BEM220) was not returned for Saleh Ahed Fadel. Manual Items: ERM101, ERM102. The individuals listed to which the denial reasons were applicable were Petitioner, Saleh Ahmed Fadel, his daughter, Mona S Fadel, Sulaiman S. Fadel, and Ebrahim Fadel.

With respect to this second reason for denial of the application, the Department did not present evidence to support the reasons listed. Because the Department did not present evidence regarding the second reason for denial and given the fact that the electronic document file indicated a number of items listed on the VCL were supplied prior to the February 2, 2018 due date, the Department did not meet its burden of proof to demonstrate what specific requirement in the second set of reason, if any, was deficient. The only evidence offered was the failure to provide the requested verification for Petitioner's daughter [REDACTED]. As stated above, the proper action as regards the failure to provide the daughter's information regarding citizenship/immigration status was disqualification, not denial of the entire FAP application.

In conclusion, it is determined that the Department was required to process the Petitioner's FAP application without his daughter [REDACTED] who was not eligible for FAP and per BEM 225 was disqualified because the verification was not provided.

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 the Petitioner's Medical Assistance case for failure to complete the redetermination.

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 denied the Petitioner's FAP application rather than remove the disqualified person and process the FAP application.

DECISION AND ORDER

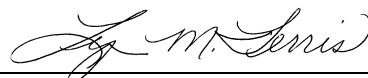
Accordingly, the Department's decision is

AFFIRMED IN PART with respect to the closure of Petitioner's Medical Assistance case and
REVERSED IN PART with respect to the denial of the Petitioner's application for Food Assistance.

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. The Department shall re-register the Petitioner's January 23, 2018 Food Assistance application and process the application.
2. The Department shall, if it determines the Petitioner is otherwise eligible for FAP, issue a FAP supplement to Petitioner for FAP benefits the Petitioner is otherwise entitled to receive in accordance with Department policy.

LF/tm



Lynn M. Ferris

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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