



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 10, 2018
MAHS Docket No.: 18-003629
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 May 8, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

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 FAP benefits.
2. On [REDACTED], Petitioner submitted her redetermination (DHS-1010). [Exhibit A, pp. 24-31.]
3. Petitioner's employment for [REDACTED] ended [REDACTED]. [Exhibit A, p. 8.]
4. The Department requested verification of Petitioner's loss of employment but had three different due dates for her employment at [REDACTED], including

██████████, ██████████, and ██████████. [Exhibit A, pp. 8-9, 13, and 14-15.]

5. On ██████████, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective ██████████, ongoing, due to her failure to provide verification of loss of employment and earned income payment verification. [Exhibit A, pp. 20-23.]
6. On ██████████, Petitioner submitted verification of her loss of employment. [Exhibit A, pp. 8-9.]
7. On ██████████, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, p. 2-3.]

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.

Preliminary matter

As a preliminary matter, Petitioner also disputed the closure of her MA benefits. [Exhibit A, p. 2-3.] On ██████████, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her MA benefits would close effective ██████████ [Exhibit A, pp. 16-19.] However, during the hearing, it was discovered that the Department reinstated Petitioner's MA benefits. On ██████████, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was eligible for MA benefits, subject to a \$██████ deductible, effective ██████████, ongoing. [Exhibit B, pp. 1-4.] Based on this information, Petitioner's hearing request concerning

the closure of her MA benefits is resolved due to the Department reinstating her benefits. If Petitioner's disputes the type of MA benefits she was eligible for and/or the amount of the deductible, she can file another hearing request disputing these new actions. See BAM 600 (April 2018), pp. 1-6.

For the above stated reasons, Petitioner's MA hearing request is DISMISSED.

FAP closure

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2018), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2018), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1.

To complete the redetermination process, the Department will generate a verification checklist (VCL) for any missing verifications. See BAM 210, p. 18.

For FAP cases, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 17. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day. BAM 210, p. 17. Note: the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 17.

BAM 130, Verification and Collateral Contacts, also states the Department will allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (April 2017), p. 7. 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. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 7. The Department sends 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. BAM 130, p. 7.

In the present case, the Department indicated that it closed Petitioner's FAP benefits because she failed to timely submit her verification of loss of employment for [REDACTED]. The evidence established that Petitioner's employment for [REDACTED] ended [REDACTED]. [Exhibit A, p. 8.] Policy requires that the Department verify the stopping of income. See BEM 501 (July 2017), p. 10. Here, the undersigned Administrative Law Judge (ALJ) discovered three different due dates for verification of

her employment at Central Clean Sweep, including [REDACTED], [REDACTED], and [REDACTED]. [Exhibit A, pp. 8-9, 13, and 14-15.] It was unclear why the Department provided these multiple due dates for the employment. Nevertheless, the evidence established that Petitioner submitted verification of her loss of employment from [REDACTED] on [REDACTED], which was by one of the due dates requested by the Department. [Exhibit A, pp. 8-9 and 13.] Therefore, the Department improperly closed Petitioner's FAP benefits because she submitted the requested verification by the due date in accordance with Department policy. BAM 105, p. 9; BAM 130, p. 7; and BAM 210, p. 17. The Department is ordered to redetermine Petitioner's FAP eligibility effective [REDACTED], in accordance with Department policy.

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 improperly closed Petitioner's FAP benefits effective [REDACTED].


Accordingly, the Department's FAP 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. Redetermine Petitioner's FAP eligibility effective [REDACTED];
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's **MA** hearing request is **DISMISSED**.

EF/hb



Eric J. Feldman
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]

Petitioner

[REDACTED]