



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: June 20, 2018
MAHS Docket No.: 18-003996
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, a telephone hearing was held on June 18, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearing Facilitator, and Theresa Sharpe, Lead Worker with the Office of Child Support (OCS).

ISSUE

1. Did the Department properly deny Petitioner's Medical Assistance (MA) application based upon non-cooperation with the OCS?
2. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for failure to verify earned income?

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 12, 2018, the Department issued a Verification Checklist (VCL) requesting proof of income and residential address by January 22, 2018.
2. On January 22, 2018, Petitioner submitted proof of birth verification, lease, medical needs, income, and other items, in person at the local office; however, days later, her case worker indicated that the proof of income was missing.

3. On January 26, 2018, Petitioner resubmitted her proof of income to the Department.
4. On January 29, 2018, the Department issued a Notice of Case Action to Petitioner informing her of the closure of her FAP benefits based upon Petitioner's failure to verify earned income.
5. On February 5, 2018, the OCS issued a First Customer Contact Letter seeking information about her child's father and requesting a response within 10 days.
6. On February 15, 2018, the OCS issued a Final Customer Contact Letter again requesting information about her child's father by February 23, 2018.
7. Petitioner did not initially respond to either letter from OCS because she was still trying to become acclimated to having a new baby and getting her house organized; she did not respond until after she started receiving medical bills for her child.
8. On February 24, 2018, the OCS had not heard from Petitioner and issued a Noncooperation Notice.
9. On April 6, 2018, Petitioner submitted an Application for MA benefits.
10. On the same day, the Department issued a Benefit Notice indicating Petitioner was not eligible for Medicaid benefits due to noncooperation with the OCS based upon her failure to respond to OCS requests.
11. On April 26, 2018, at the pre-hearing conference, Petitioner finally provided some information to the OCS about her child's father.

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).

Food Assistance Program

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, the Department closed Petitioner's FAP case for failure to provide the requested proofs. VCLs are issued to inform the client of what proofs are necessary to allow the Department to process a client's eligibility for benefits at Redetermination or Application. BAM 130 (April 2017), pp. 1-3. Clients are given 10 calendar days to provide the requested verification to the Department. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. *Id.* Negative action notices are sent when the client indicates a refusal to provide a verification or when the time period given has elapsed, and the client has not made a reasonable effort to provide the requested items. *Id.* In FAP cases at redetermination, FAP clients have until the last day of the redetermination month or 10 days, whichever is later, to provide the requested verifications. BAM 130, p. 8.

In this case, the Hearing Facilitator agreed that the documents submitted by Petitioner three days prior to the issuance of the Notice of Case Action should have been considered. Her testimony would indicate that the Redetermination month was January 2018; therefore, Petitioner would have had until January 31, 2018, to submit any proofs pursuant to policy. *Id.* Based upon the evidence presented, the Department did not act in accordance with policy when it closed Petitioner's FAP case for failure to return requested proofs.

Medical Assistance

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, Petitioner was denied MA coverage for failure to cooperate with the OCS. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the Department, the OCS, the Friend of the Court (FOC), and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255 (January 2018), p. 1. The 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. *Id.* Failure to cooperate without good cause results in disqualification. BME 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255, p. 2. Cooperation requires contacting the support specialist when requested, providing all known information about the absent parent, appearing at the prosecuting attorney's office when requested, and taking any actions needed to establish paternity and obtain child support. BEM 255, p. 9. Good cause exists when either: establishing paternity/securing support would harm

the child such as conception due to incest or rape or adoption is pending; and when there is a danger of physical or emotional harm to the child or client. BEM 255, pp. 2-3.

In this case, Petitioner did not respond to the OCS because she was busy doing other things. This is not good cause for her failure to respond. Therefore, the Department acted in accordance with Department policy when it denied Petitioner's MA application for noncooperation with OCS.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of MA benefits based upon noncooperation with the OCS and **REVERSED IN PART** with respect to closure of FAP benefits for failure to return requested proofs.

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 FAP benefits from the date of the closure for which she was notified on January 29, 2018;
2. Redetermine Petitioner's FAP eligibility;
3. If Petitioner is otherwise eligible for FAP benefits that were not previously issued, provide supplements to Petitioner in accordance with Department policy;
4. 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) 763-0155; 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

Latasha McKinney-Newell
MDHHS-Wayne-19-Hearings

Department Representative

Office of Child Support (OCS)-MDHHS

Petitioner

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