



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: July 30, 2018
MAHS Docket No.: 18-005360
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 July 26, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Haiba Murray, hearing coordinator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) benefits and terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP recipient.
2. On May 7, 2018, Petitioner applied for FIP benefits. Petitioner reported a recent loss of employment from [REDACTED] [REDACTED] [REDACTED] [REDACTED] (hereinafter, "Employer").
3. On May 9, 2018, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting documentation of loss of employment from Employer. The due date was May 21, 2018. (Exhibit A, p. 1)

4. On or near May 10, 2018, Petitioner called her MDHHS specialist to report that she asked Employer for documentation of loss of employment and that Employer told her that it would not be given. Petitioner suggested to MDHHS that she write a letter to serve as acceptable verification; Petitioner's specialist declined Petitioner's suggestion.
5. On May 23, 2018, MDHHS issued a Notice of Case Action, which denied Petitioner's FIP application. The notice also informed Petitioner of a termination of FAP benefits effective July 2018. The basis for both actions was Petitioner's failure to verify a loss of employment with Employer. (Exhibit A, pp. 2-3)
6. On or about May 24, 2018, Petitioner called her MDHHS specialist and reported that Employer was not willing to provide her with verification of employment stoppage.
7. On May 29, 2018, Petitioner requested a hearing to dispute the denial of FIP benefits and the termination of FAP benefits. Petitioner also requested a hearing to dispute an alleged termination of MA benefits.
8. As of May 29, 2018, Petitioner had not submitted to MDHHS verification of stopped employment.
9. On July 26, 2018, Petitioner verbally withdrew her dispute concerning MA eligibility.

CONCLUSIONS OF LAW

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 requested a hearing, in part, due to an alleged closure of MA benefits. MDHHS testimony indicated that Petitioner's MA eligibility was never threatened. In response, Petitioner withdrew her dispute concerning MA eligibility. Based on Petitioner's verbal withdrawal, Petitioner's hearing request will be dismissed concerning MA benefits.

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).

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. 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 termination of FAP benefits which was effective July 2018 and a denial of a FIP benefit application. MDHHS presented a Notice of Case Action dated May 23, 2018, which informed Petitioner that both actions were taken based on Petitioner's failure to verify stopped employment.

For all programs, MDHHS is to use a VCL to request verification. BAM 130 (April 2017), p. 3. MDHHS must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. MDHHS is to send a negative action notice when either:

- the client refuses to provide verification; or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*, p. 7

MDHHS mailed Petitioner a VCL on May 9, 2018, giving Petitioner until May 21, 2018, to return verification of a reported loss of employment from Employer. Petitioner acknowledged that she failed to return documentation by the due date. Petitioner also acknowledged that she failed to return documentation by the date MDHHS denied her FIP application and closed Petitioner's FAP eligibility. Notably, MDHHS policy does not state that a failure to submit verification justifies disclosure; it is the client's reasonable efforts in submitting verification that must be considered.

Petitioner testified that she attempted to obtain documentation of stopped employment but was unsuccessful. Petitioner testified that she called Employer shortly after receiving the VCL and was told by Employer that they would not provide her with verification of stopped employment. Petitioner also testified that she reported Employer's response to her specialist shortly after receiving the VCL and shortly after receiving the negative action notice. Petitioner offered to write her own letter to serve as verification, but MDHHS declined Petitioner's offer. Petitioner's testimony was credible and un rebutted.

The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a

reasonable effort, MDHHS is to use the best available information. If no evidence is available, specialists are to use their best judgment. (*Id.*, p. 3)

Petitioner's attempts to obtain verification from her Employer and offer to submit her own written statement were reasonable efforts to verify stopped employment. Petitioner's calls to MDHHS served as requests for help in obtaining verification which went disregarded by MDHHS. Petitioner's reasonable efforts and MDHHS' failure to assist Petitioner invalidates the negative action taken to Petitioner's FAP and FIP eligibility.

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 MA eligibility. 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 improperly terminated Petitioner's FAP eligibility and improperly denied Petitioner's FIP application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP application dated May 7, 2018 subject to the findings that Petitioner made reasonable efforts and MDHHS failed to assist Petitioner concerning Petitioner's verification of stopped employment with Employer;
- (2) Reinstate Petitioner's FAP eligibility, effective July 2018, subject to the findings that Petitioner made reasonable efforts and MDHHS failed to assist Petitioner concerning Petitioner's verification of stopped employment with Employer;
- (3) Initiate a supplement of benefits, if any, improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/



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) 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

Petitioner

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BSC4
B Sanborn
M Holden
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