



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

████████████████████
████████████████████
████████████████████ MI ██████████

Date Mailed: July 10, 2018
MAHS Docket No.: 18-005627
Agency No.: ██████████
Petitioner: ██████████

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 9, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Adam Slate, hearing facilitator, and Christine Brown, specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Child Development and Care (CDC) eligibility.

The second issue is whether MDHHS properly 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 CDC and FAP recipient. Petitioner's program group for both programs included two minor children.
2. On April 9, 2018, Petitioner submitted a Change Report to MDHHS. Petitioner reported that her employment with ██████████ (hereinafter "Employer1") ended on April 6, 2018, and that she started new employment with ██████████ (hereinafter "Employer2"). Petitioner also reported that two minor children left her household. (Exhibit A, pp. 3-6)

3. On April 11, 2018, MDHHS mailed a Notice of Case Action to Petitioner informing her of a termination of CDC eligibility due to Petitioner having no eligible minor children in her household. (Exhibit A, pp. 7-11)
4. On April 16, 2018, Petitioner submitted a Change Report to MDHHS. Petitioner reported that she again lived with her children. Petitioner also reported the loss of employment with Employer2. (Exhibit A, pp. 12-15)
5. On April 17, 2018, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of loss of Petitioner's employment with Employer1 and Employer2. The stated due date was April 27, 2018. Petitioner subsequently timely verified loss of employment with Employer1.
6. On April 23, 2018, Petitioner's CDC eligibility ended.
7. On April 27, 2018, Petitioner informed MDHHS that she contacted her manager at Employer2 and was unable to obtain requested verification of job loss. Petitioner provided MDHHS with a telephone number and address of her former employer. (Exhibit 1, pp. 1-2)
8. On May 14, 2018, MDHHS mailed Petitioner a Notice of Case Action informing Petitioner of a termination of FAP eligibility, effective June 2018. The stated reason for termination was a failure to verify a loss of employment. (Exhibit A, pp. 18-21)
9. On May 24, 2018, Petitioner requested a hearing to dispute the terminations of CDC and FAP eligibility. (Exhibit A, pp. 22-23)

CONCLUSIONS OF LAW

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 a termination of CDC benefits. MDHHS presented a Notice of Case Action dated April 11, 2018, which informed Petitioner that her CDC eligibility was ending due to Petitioner's minor children moving out of her home. At the time that MDHHS mailed notice of termination, Petitioner had no dependent children in her household; this was a valid reason to initiate termination of

CDC benefits (see BEM 205). It is less clear that MDHHS should have allowed the closure to occur based on Petitioner's reporting on April 16, 2018, that her children returned to her household.

There are two types of written notice: adequate and timely. An adequate notice is a written notice sent to the client at the same time an action takes effect (i.e. not pending). A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220 (January 2018), pp. 1-4.

Petitioner's reporting to MDHHS on April 16, 2018, that her children were in her household was within 11 days of the timely notice of termination sent to Petitioner on April 11, 2018. MDHHS should have stopped the pending termination because the basis for termination was no longer valid. Perhaps MDHHS allowed the CDC benefit termination to continue because Petitioner also reported that she lost her new job; loss of employment could have left Petitioner without any need reason to receive CDC benefits (see BEM 703). If MDHHS allowed Petitioner's CDC eligibility to end because of a loss of employment, MDHHS would still be obliged to cancel the pending termination and to send a new notice with an updated reason for termination; this obligation is set forth by BAM 220 which requires MDHHS to provide written notice of the reason for benefit termination.

Based on the evidence, MDHHS improperly terminated Petitioner's CDC eligibility. Consequently, MDHHS will be reordered to reinstate Petitioner's eligibility.

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 also requested a hearing to dispute a termination of FAP benefits. MDHHS presented a Notice of Case Action dated May 14, 2018, verifying the reason for termination was Petitioner's failure to verify a loss of employment.

For FAP benefits, MDHHS is to verify employment income that decreases or stops. BEM 501 (July 2017), p. 10. For all programs, MDHHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (April 2017), p. 3. MDHHS must allow the client 10 calendar days (or otherwise prescribed) to provide the verification that is requested. *Id.*, p. 6. MDHHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. MDHHS 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. *Id.*

The client must obtain required verification, but the local office must assist if they need and request help. *Id.* If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is to use the best available information. *Id.* Clients must name suitable collateral contacts when requested, but the local MDHHS office is responsible for obtaining verification. *Id.*

MDHHS terminated Petitioner's FAP eligibility after Petitioner did not provide MDHHS with verification of loss of employment with Employer2. Though Petitioner did not verify her loss of employment, she reported her difficulty with obtaining verification to MDHHS. Petitioner also provided MDHHS with an address and telephone number of Employer2. Petitioner's reporting all occurred before MDHHS initiated termination of Petitioner's FAP eligibility. Given Petitioner's reported difficulties in obtaining verification of her loss of employment, as well as her cooperation with providing MDHHS with collateral contact information for Employer2, MDHHS should have made collateral contact with Employer2 and determined Petitioner's FAP eligibility based on the best available information. MDHHS' failure to do so was erroneous. Consequently, MDHHS will be ordered to reinstate Petitioner's FAP eligibility from June 2018.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's CDC and FAP eligibility. 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 CDC eligibility, effective April 11, 2018, subject to the finding that MDHHS improperly failed to cancel benefit termination upon Petitioner's reporting that she lived with her minor children; and
- (2) Reinstate Petitioner's FAP eligibility, effective June 2018, subject to the finding that MDHHS failed to assist Petitioner with verifying loss of employment with Employer2.

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

Randa Chenault
MDHHS-Oakland 3-Hearings

DHHS

Renee Olian
MDHHS-Kalamazoo-Hearings

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

BSC4
L Brewer-Walraven
M Holden
D Sweeney
C Gardocki
MAHS