



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 10, 2018
MAHS Docket No.: 18-005705
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 3, 2018, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Gregory Fulsom, Eligibility Specialist/Hearings Facilitator.

ISSUE

Did the Department properly cancel Petitioner's Food Assistance Program (FAP) benefits?

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 April 13, 2018, Petitioner submitted a redetermination with proof of bank savings and checking.
2. On April 25, 2018, the Department process the redetermination and mailed Petitioner a verification checklist requesting bank account information for savings and checking accounts there were listed in bridges.
3. On April 30, 2018 Petitioner submitted proof of Wildfire Savings.

4. On May 1, 2018, a telephone interview was completed, and Petitioner was mailed another verification checklist, requesting assets that were discussed in the interview.
5. On May 16, 2018, Petitioner did not provide proofs of the Elga accounts or the Wildfire Checking account. The notice of case action was mailed explaining that the food assistance program benefits were closed for not submitting verification for all accounts.
6. On May 29, 2018, Petitioner talked with a worker on the phone and requested a hearing
7. On May 29, 2018, a Pre-Hearing conference notice was mailed to Petitioner scheduled for June 7, 2018, at 10:00 AM.
8. On June 7, 2018, Petitioner did not attend the Pre-Hearing conference.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 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.

The Department must establish its case by a preponderance of the evidence on the record. A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

Pertinent Department policy dictates:

All Programs

BAM 130 states:

Use documents, collateral contacts or home calls to verify information. A document is a written form of verification. It may include a photocopy, facsimile or email copy if the source is identifiable.

Permanent documents must be obtained only once, unless they are found to be missing from the case record. Examples: birth certificate, passports, divorce papers, death notice. Copies of these documents should remain in the case record. Nonpermanent documents must be current.

If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. (BAM 130, page 3)

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

The Department Representative stated that Petitioner failed to return any of the requested documentation that was requested and did not attend the telephone appointment. The packet included the appointment notice.

Petitioner alleges that the accounts referenced by the department are closed accounts. The accounts closed in 2014. Petitioner testified that she is ■ years old and receives \$519.00 per month in retirement income. She does not understand why she should provide evidence of a closed account and doesn't know how to go about getting that information.

This Administrative Law Judge finds that the April 23, 2018, verification checklist requested bank accounts savings and bank account checking information. Petitioner did provide statements from Allied bank checking and savings. The second request for information was sent out in a verification checklist dated May 1, 2018, which simply requested assets. Petitioner provided a copy of a Wildfire Credit Union primaries share account with \$5.11 in it. Petitioner also provided a personal statement that the Elga accounts were closed. The verification checklists were vague and not specific as to the information requested.

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 has not established by the necessary competent, material, and substantial evidence on the record that it was acting in accordance with department policy when it determined that Petitioner failed to provide verification information for redetermination purposes. Petitioner did provide verification information which was sufficient for the caseworker to make a determination of eligibility. Petitioner did provide information that one of the accounts was closed and had been closed for substantial period of time. Petitioner provided verification information of all other accounts. Petitioner did not fail to provide information. The Department's decision must be reversed.

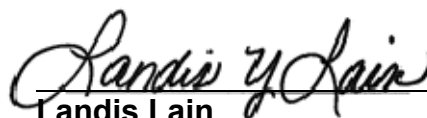
DECISION AND ORDER

Accordingly, the Department's determination to cancel Petitioner's Food Assistance Program eligibility was incorrect under the circumstances. The Department's 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. Re-evaluate Petitioner's Food Assistance Program case and determine the proper amount in accordance with Department policy.
2. Initiate assistance of Petitioner in acquiring documentation of her closed bank accounts for Department records, in compliance with Department policy.
3. If Petitioner is otherwise eligible, initiate payment to Petitioner any FAP benefits to which she is entitled from the date of closure forward.

LL/bb



Landis Lain
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

Mark Epps
4809 Clio Road
Flint, MI 48504

Genesee County (Clio), DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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MI