



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI

Date Mailed: August 1, 2018
MAHS Docket No.: 18-006442
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 26, 2018, from Lansing, Michigan. Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by Adam Slate, Hearings Facilitator.

Department's Exhibits 1-13 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Food Assistance Program (FAP) case and her Medical Assistance (MA) for failure to return wage match notice?

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 a FAP and MA benefit recipient.
2. On May 1, 2018, the Department sent Petitioner a Wage Match Client Notice which indicated that Petitioner had received income that was not reported in the amount of \$1,751.00 Quarterly Income reported. The wage match information was required to be returned to the Department by May 31, 2018.

3. On May 30, 2018, the Department sent Petitioner Notice of Time Limited Food Assistance Countable Month/Out of State Countable Month indicating “you have failed to meet the participation requirement that is required for time Limited Food Assistance or have received an out of state countable month.
4. On May 30, 2018, the Department sent Petitioner a Notice of Case Action indicating that Petitioner’s FAP benefits have been cancelled effective June 30, 2018, because Petitioner has used three Time Limited Food Assistance (TLFA) countable months.
5. On June 8, 2018, the Department sent Petitioner a Healthcare Coverage Determination Notice indicating that Petitioner’s Medical Assistance would be closed effective July 1, 2018 because “You or a group member failed to verify or allow the Department to verify requested information”, wage match not returned.
6. On June 19, 2018, Petitioner filed a request for Hearing to contest the Department’s negative action.
7. On July 6, 2018, the Michigan Administrative Hearing System received the hearing summary and attached documents.

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.

A Time-Limited Food Assistance (TLFA) individual must meet specific work requirements to receive benefits. Failure to do so limits the individual’s Food Assistance Program (FAP) eligibility to three months within a 36-month period. TLFA individuals who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period. The 36-month period is a standardized period. The TLFA policy went into effect in Eaton County on January 1, 2018. All FAP individuals age 18 through 49 are TLFA unless deferred. Department of Health and Human Services Bridges Eligibility Manual (BEM) 320 (January 1, 2018), p 1.

For a FAP benefit month not to be countable, a TLFA individual must work at least 80 hours or participate 80 hours in an employment and training program. BEM 620, pp 2-3.

Individuals may be deferred from TLFA if there is a member of the FAP group that is under age 18, pregnant, physically or mentally unfit for employment, or deferred from employment-related activities per BEM 230B. BEM 620, 1-2.

A TLFA individual will be found to have meet the requirements if a month was found to be countable due to late hour entry, a hearing decision, or meeting the work requirement. Verification of good cause is only required if the specialist considered the claim to be questionable. BEM 620, pp 3-5.

The Department will remove the countable month if the TLFA recipient had good cause for not meeting the requirements. A TLFA individual who worked or participated less than the required hours is considered to have met the work requirement if all the flowing conditions are met:

- The absence was due to circumstances beyond the individual's control.
- It was temporary.
- The individual has retained the job, MWA employment and training slot, workfare slot, or community service position.

BEM 620, pp 4-5.

A TLFA individual who has received three countable months can regain FAP eligibility for 80 hours of employment, by participating in community service, receiving a deferral from TLFA requirements, or deferral from employment-related activities per BEM 230B. BEM 620, pp 8-9.

If Petitioner was provided notification of each TLFA countable month, evidence of those notifications was not provided at the hearing. Further, notification of the third countable month would have had to have been sent before the end of the month, or after the date her FAP benefits were already pended to close.

Petitioner testified that she did not receive the First notice of Time Limited Food Assistance Countable Month but did receive the others. If Petitioner was provided notification of each TLFA countable month, evidence of those notifications was not provided as a part of the hearing packet before the date of hearing.

Good cause is having a valid reason for failing to work at least 80 hours monthly (20 hours/week on average), failure to participate in an employment and training program at the MWA or failure to participate in Workfare or Self-Initiated Community Service.

An individual who worked or participated less than the required hours is considered to have met the work requirement if all the following conditions are met:

- The absence was due to circumstances beyond the individual's control.
- It was temporary.
- The individual has retained the job, MWA employment and training slot, workfare slot or community service position.

Document the good cause determination on the FAP Time Limited - Good Cause screen. Case comments detailing the reason for good cause are mandatory. The following are examples of good cause reasons:

- Personal illness.
- Death or illness of a household member requiring the presence of the TLFA recipient in the home.
- The unavailability of transportation.
- Lack of work (employer must verify).
- Household emergency
- Temporary unfit for work. (BEM 620, pages 4-5)

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.

Pertinent Department policy dictates:

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

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)

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications. (BEM 130, page 8)

In this case, the evidence establishes that the New Hire Information was not received by the Department as requested. Petitioner has not established good cause for her failure to return the information to the Department. The Department's case is established by a preponderance of the evidence presented.

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).

This Administrative Law Judge finds that the Department established by the necessary competent material and substantial evidence on the record that it was acting in compliance with department policy when it determined to that Petitioner did not meet the TLFA requirements because petitioner had not met the hourly participation requirements or received an Out-of-state countable month for a Time Ltd. Food assistance. The Department also established that Petitioner failed to provide requested

wage match verification. Petitioner did not attend the Prehearing Conference and did not establish good cause for her failure to meet TLFA requirements, or that verification was requested to determine whether she had good cause. The Department's actions were appropriate under the circumstances and must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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

Renee Olian
322 Stockbridge
Kalamazoo, MI 49001

Kalamazoo County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]