



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: September 26, 2018
MAHS Docket No.: 18-008628
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 September 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Haysem Hosney, Eligibility Specialist. During the hearing, an 11-page packet of documents was offered and admitted as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to return required verifications?

Did the Department properly close Petitioner's Medicaid (MA) case for failing to return required verifications?

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 with a FAP group size of one.
2. Petitioner was an ongoing MA beneficiary.

3. Sometime in May of 2018, the Department allegedly received a new hire report informing the Department that Petitioner had recently been hired at ██████, LLC. Exhibit A, p. 3-4.
4. On May 18, 2018, the Department issued to Petitioner a New Hire Client Notice. The document informed Petitioner that the Department's computer cross match program found that wages were being reported under Petitioner's name at ██████, LLC. The Department required Petitioner to fill out the New Hire Client Notice, which asks for information relevant to ongoing eligibility for both FAP and MA. The document informed Petitioner that she had until May 29, 2018, to return the completed form and that failure to do so would result in cancellation of her public benefits. Exhibit A, pp. 3-4.
5. On May 29, 2018, Petitioner returned the completed form to the Department.
6. On June 6, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting paycheck stubs showing the last 30 days of Petitioner's earnings at ██████ LLC and a completed Verification of Employment form filled out by ██████, LLC. A blank Verification of Employment form was provided for Petitioner to have an ██████, LLC representative fill out and return to the Department. The verifications were due by June 18, 2018, and Petitioner was warned that failure to timely provide the information would result in the cancellation of Petitioner's public benefits. Exhibit A, pp. 5-8.
7. On June 18, 2018, Petitioner returned the verifications requested in the June 6, 2018, VCL, including the Verification of Employment form signed by a representative from ██████, LLC.
8. On June 19, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that effective August 1, 2018, Petitioner's MA case was being closed for failing to return the verifications related to her income. Exhibit A, pp. 8-11.
9. On August 20, 2018, Petitioner submitted to the Department a request for hearing challenging the Department's closure of her FAP and MA cases.

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.

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, the Department closed Petitioner's FAP and MA cases as a result of Petitioner's alleged failure to timely return verifications with respect to new employment and income Petitioner had from [REDACTED], LLC. Petitioner objects to the Department's decision to close her FAP and MA cases and alleges that she in fact did provide the requested information in a timely manner.

A client's income is highly relevant for the determination of eligibility for both FAP and MA. BEM 500 (July 2017), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department's June 6, 2018, VCL and Verification of Employment form requested wage and employment information for Petitioner at [REDACTED] LLC. The requested verifications had to be received by the Department by June 18, 2018. On June 18, 2018, Petitioner provided to the Department wage information for herself and the completed Verification of Employment form.

Upon reviewing the documents submitted by Petitioner, the Department deemed them to be insufficient and issued a June 19, 2018, Health Care Coverage Determination Notice informing Petitioner that her MA case was being closed as a result of not

providing the required verifications. The record does not contain any document informing Petitioner that her FAP case was being closed. However, both parties testified at the hearing that the FAP case, in fact, did close as well. At no point before closing Petitioner's MA and FAP cases did the Department send out another VCL that specifically identified why the timely submission by Petitioner was insufficient or incomplete.

Petitioner responded in a timely and reasonable manner to the VCL and Verification of Employment form sent on June 6, 2018. Despite making a reasonable good faith effort to provide what was asked for, the Department deemed Petitioner's submission insufficient and closed Petitioner's FAP and MA cases based on Petitioner's failure to provide what the Department requested.

The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Petitioner never indicated an unwillingness to provide the information, and certainly, timely providing the information requested qualifies as a reasonable effort to provide the information. As neither of the conditions for sending a negative case action were present, the Department was precluded from taking negative action against Petitioner's case. Based on what was presented, the Department could have either considered the verifications to have been provided or sent out another VCL to request further information to verify anything that was unclear. The Department instead improperly closed Petitioner's FAP and MA cases. Thus, the Department violated policy when it closed Petitioner's FAP and MA cases.

DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP and MA cases for Petitioner's alleged failure to submit required verifications.


Accordingly, 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. Reinstate Petitioner's FAP case back to the date of closure;
2. Reinstate Petitioner's MA case back to the date of closure;

3. Review Petitioner's FAP case to determine if Petitioner is eligible for any additional benefits, and if so, issue supplements to Petitioner;
4. Provide Petitioner with MA coverage from the date of improper closure of Petitioner's MA case, ongoing, in accordance with Department policy;
5. Issue any verifications to Petitioner that may still be needed and ensure that the requests are clear as to what is being requested; and
6. Notify Petitioner in writing of its decision.

JM/dh



John Markey
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

Vivian Worden
41227 Mound Rd.
Sterling Heights, MI 48314

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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