



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 25, 2019
MAHS Docket No.: 18-010326
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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, combined in-person and telephone hearings were held on January 2, 2019, and January 23, 2019, from Detroit, Michigan. The Petitioner appeared for both hearings and was represented by Attorneys Nick Gable at the first hearing, and Min Kim at the second hearing. The Department of Health and Human Services (Department) was represented by Assistant Attorney General Leah Brooks, and had as witnesses Kathy Burr, Assistance Payments Supervisor; Sandra Breadlow, Assistance Payments Worker; and Candice Baker, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits in July 2018?

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application in August 2018?

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 had been an ongoing FAP recipient.
2. In July 2018, Petitioner's FAP benefits were closed sometime before July 20th; the parties disagree on the reasoning for the closure and neither party provided any documentation to support their explanation of the closure.

3. The parties agree that no Notice of Case Action was issued for the July 2018 closure.
4. On August 18, 2018, Petitioner submitted a new FAP application listing [REDACTED] as an Authorized Representative (A/R) and listing herself as disabled, but there was no space provided to identify her specific disabilities.
5. On August 23, 2018, Petitioner completed an interview with her caseworker during which a discussion was held about household members with disabilities, Petitioner's daughter's pregnancy, and Petitioner's receipt of Supplemental Security Income (SSI).
6. On the same day, a Verification Checklist (VCL) was issued to Petitioner requesting proof of rent, Social Security number, vendor pre-paid debit card, heating and cooling expenses, and residential address all due by September 4, 2018.
7. On August 23, 2018, A/R faxed and emailed Petitioner's caseworker a verification of Petitioner's Social Security vendor pre-paid debit card.
8. On September 4, 2018, the Department received a completed Shelter Verification for Petitioner.
9. On September 5, 2018, the Department received a copy of Petitioner's driver's license and Social Security card.
10. On September 17, 2018, Petitioner's caseworker processed the verifications and denied Petitioner's application because the Department had not received verification of the vendor pre-paid debit card; but no Notice of Case Action was issued informing Petitioner of the denial.
11. On October 3, 2018, Petitioner submitted a request for hearing disputing her FAP case.
12. On October 9, 2018, the Department realized that the Notice of Case Action had not been issued; therefore, a manual Benefit Notice was issued and a Help Desk Ticket #0430871 was requested because no notices were being issued by Bridges for her FAP case.
13. On October 25, 2018, an appearance by Attorney Kim was filed with Michigan Administrative Hearing System (MAHS) and the Department, which also included a second hearing request to dispute the July 2018 closure of FAP benefits.
14. The Department received the October 25th request for hearing, but no action was taken on it; and no hearing was scheduled by MAHS.
15. On January 2, 2019, at the hearing, the parties agreed to consolidate the issues presented by the October 3, 2018, hearing request as well as the October 25,

2018, hearing request into the same hearing for MAHS docket number 18-010326 and to continue the hearing to a later date so that the Department and its Attorney could prepare based upon the October 25th request.

16. On January 23, 2019, the parties appeared and presented evidence based upon both hearing requests.

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.

In this case, Petitioner's FAP case was closed in July 2018 without notice; and the parties disagree as to the reasoning. Petitioner believes that the FAP case was closed in July 2018 because of an incomplete Redetermination process; however, Petitioner never received the Redetermination to be able to complete it. At the hearing, Petitioner's caseworker initially could not remember the reason for the closure and also believed it might have been related to an incomplete Redetermination. However, she could not identify the regular Redetermination cycle for Petitioner. After several minutes of questioning, Petitioner's caseworker suddenly remembered that the reason for the closure was because Petitioner's son's girlfriend (Girlfriend) had filed her own FAP case and there was a question of whether Girlfriend was in Petitioner's home or another, and whether Petitioner's son was living with Petitioner or Girlfriend. In addition, Girlfriend had reported income for Petitioner's son, so a request for verification of income was sent to Petitioner for her son's income. Petitioner does not agree with this version of events. It should also be noted that at the hearing, Petitioner's caseworker conceded that the closure of the FAP case happened before the verification was requested. No documentation was presented in the hearing to support either version of events. The only thing that the parties agree upon is that Petitioner was not provided a notice of FAP closure, which delayed her ability to remedy the problem or take other actions.

Policy provides that decreases in program benefits including case and eligibility determination group (EDG) closure are considered to be negative actions. BAM 220 (July 2018), p. 11. A negative action is a Department action to deny an application or reduce, suspend or terminate a benefit. BEM 220, p. 1. Bridges is supposed to

generate a Notice of Case Action upon a negative action or case closure. BAM 220, pp. 2, 22. The parties agree that Bridges has some sort of glitch and was not issuing Notices of Case Action to Petitioner. Therefore, Help Desk Ticket Number 0430871 was created to remedy the error but not until October 9, 2018, several months after the July 2018 closure. Notices of Case Action are issued to clients to inform them of all actions affecting eligibility and benefit amounts. BAM 600 (July 2018), p. 1. The Notice of Case Action must specify the actions being taken by the Department, the reasons for the actions, specific manual items or legal basis for the action, a right to request a hearing, and the conditions under which benefits are continued if a hearing is requested. BAM 600, p. 2; BAM 220, pp. 2-3.

Since no Notice of Case Action was issued in compliance with policy and the Department has not presented sufficient evidence of the reason for the closure, the Department has not shown that they have acted in accordance with Department policy.

Turning to the issue of Petitioner's August 2018 application denial, again the Department failed to issue a Notice of Case Action, but the error was eventually remedied with a Benefit Notice, albeit only after Petitioner's request for hearing. Petitioner's application listed a disability for herself, as well as an Authorized Representative with a name, telephone number, and email address. Despite listing an A/R, the VCL was only issued to Petitioner.

Policy provides that the caseworker is required to enter on the Alternate Payee/Authorized Representative screen in Bridges the name of the person who is acting as the authorized representative. BAM 110 (April 2018), p. 14. In addition, the name of each Authorized Representative must be in the group's case file. BAM 110, p. 15. An Authorized Representative is a person who either applies for assistance on behalf of a client or otherwise acts on the client's behalf, except in hearings. BAM 110, p. 9. Therefore, if an Authorized Representative is designated on the application, all documentation should be sent to both the client and the Authorized Representative. Petitioner's case worker failed to recognize A/R despite having received the application listing the A/R, documentation from the A/R, and requests to communicate with the A/R directly. Since she failed to recognize A/R, A/R was not entered in Bridges and the VCL was not sent to A/R. This is the first instance when the Department failed to comply with policy in relation to the denial of Petitioner's August 2018 application.

Turning to the second issue related to the denial of Petitioner's FAP application, the VCL requested verification of a vendor pre-paid debit card among other things which Petitioner did not return prompting the denial of her application. Policy provides that verifications are usually required at application. BAM 130 (April 2017), p. 1. When verifications are required, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. In this case, the VCL was ambiguous and did not clearly identify the vendor pre-paid debit card that was in question or if there was more than one in question.

On August 23, 2018, A/R provided proof of Petitioner's Social Security Benefit vendor pre-paid debit card believing that this was the card in question. The Department does not dispute receipt of this proof. Other proofs were received from Petitioner, but there was no follow-up from the Department if additional proofs were required. Only after the closure and after the request for hearing at the pre-hearing conference was it clarified that the Department needed proof of the child support vendor pre-paid debit card and that this was the basis for the denial. Since the Department did not clearly identify on the VCL that there was more than one vendor pre-paid debit card in question or identify which vendor pre-paid debit cards were required, the Department has not acted in accordance with Department policy.

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 case in July 2018, and did not act in accordance with Department policy when it denied Petitioner's August 2018 application for FAP.

DECISION AND ORDER

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 and redetermine Petitioner's FAP benefits effective July 2018;
2. Add A/R to Petitioner's case based upon the information provided in the August 2018 Application;
3. Process Help Desk Ticket Number 0430871; and
4. Notify Petitioner and A/R in writing of the reinstatement of benefits and completion of the Help Desk Ticket.



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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

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