



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 5, 2019
MAHS Docket No.: 19-001953
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 March 28, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Emily Camp, Assistance Payments Supervisor, and Monica Shoemaker, Eligibility Specialist. During the hearing, a 59-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-59.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective October 1, 2018?

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective January 1, 2019?

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 recipient of FAP and MA benefits from the Department.
2. On August 4, 2018, the Department issued to Petitioner a blank Redetermination form in order gather relevant information regarding Petitioner's ongoing eligibility for FAP and MA benefits from the Department. Petitioner was informed that she had to return the completed form along with all necessary verifications to the

Department by September 4, 2018. Petitioner was warned that failure to complete the Redetermination process would result in her benefits ending at the end of her benefit period. Exhibit A, pp. 3-10.

3. Issued along with the Redetermination was a Redetermination Telephone Interview notice informing Petitioner that she had a telephone interview scheduled for September 4, 2018, at 9:30 am. The document further informed Petitioner that in order to complete the Redetermination Telephone Interview, the Department must first receive the completed Redetermination packet. Exhibit A, p. 2.
4. Petitioner did not return the completed Redetermination by September 4, 2018. Thus, the Department did not initiate the Redetermination Telephone Interview.
5. On [REDACTED], 2018, Petitioner returned the completed Redetermination form to the Department along with a number of documents verifying some, but not all, of the information required to determine Petitioner's eligibility for the relevant programs. Exhibit A, pp. 11-16.
6. Included in the documents Petitioner returned was a Notice of Rent Determination from the [REDACTED] dated [REDACTED], 2018. The document informed Petitioner that starting August 1, 2018, Petitioner would be responsible for paying \$268 per month for a \$1,096 per month unit. The remaining \$828 would be covered in the form of a Housing Assistance Payment (HAP). Exhibit A, p. 16.
7. On November 14, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting verification of two items, one related to assets and the other related to income: (1) a savings account and (2) proof of household income over the previous 30 days. Petitioner was required to return the requested verifications by November 26, 2018. Exhibit A, pp. 20-21.
8. Petitioner and her worker, Ms. Shoemaker, exchanged emails regarding the required documents from November 14, 2018, through November 16, 2018. On November 14, 2018, Ms. Shoemaker told Petitioner that Petitioner had still not verified her income or her [REDACTED] account ending in [REDACTED]. Petitioner responded saying that she had already provided her information related to [REDACTED]. In response, Ms. Shoemaker once again told Petitioner that she needed information related to a [REDACTED] account ending in [REDACTED] and that Petitioner's income was not verified. Further, Ms. Shoemaker provided further information concerning her request by stating that the "housing voucher says your Rent portion is \$268, so where's the income on which that determination was based." In response, Petitioner provided no information regarding her income, and with respect to the [REDACTED] account, Petitioner stated that she did not have any more accounts than what she already provided verifications for. Exhibit A, pp. 22-23.

9. Petitioner and Ms. Shoemaker continued their email correspondence over the next couple of days. Ms. Shoemaker repeatedly reiterated that she needed the information related to Petitioner's income that was used to calculate Petitioner's rental obligations because based on the information Petitioner provided to the Department, her rental obligations exceeded her income. Likewise, Ms. Shoemaker repeatedly told Petitioner that she needed information related to the account ending in [REDACTED] at [REDACTED]. Exhibit A, pp. 30-42.
10. On [REDACTED] 2018, Petitioner submitted to the Department documents related to her income and some of what Petitioner submitted to the [REDACTED] for the purposes of verifying her income to that entity. Exhibit A, pp. 24-29.
11. On November 20, 2018, Ms. Shoemaker emailed Petitioner again telling her that what she submitted was not sufficient and explaining why. Ms. Shoemaker again told Petitioner that she needed to verify income and her account at [REDACTED] ending in [REDACTED]. Exhibit A, p. 30.
12. On [REDACTED], 2018, Petitioner submitted to Ms. Shoemaker a document purporting to be issued by [REDACTED]. In addition to not making much sense, the document at no point provided an account number and was not accepted by the Department as a valid verification of the account at [REDACTED] ending in [REDACTED]. Exhibit A, p. 43.
13. Ms. Shoemaker and Petitioner exchanged more emails wherein Ms. Shoemaker repeatedly asked for the same information and Petitioner repeatedly failed to provide responsive documents or answers. Exhibit A, pp. 30-42.
14. On November 27, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case closed, effective October 1, 2018, for failure to verify assets and income. Exhibit A, pp. 45-48.
15. On November 27, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits case was closing, effective January 1, 2019, for failure to verify income. Exhibit A, pp. 49-51.
16. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the 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).

In this case, Petitioner's FAP and MA benefits cases were due for Redetermination. Accordingly, the Department issued to Petitioner a Redetermination packet that was to be completed and returned to the Department by September 4, 2018. Petitioner did not return the completed Redetermination to the Department until [REDACTED], 2018. However, because of processing issues during that time period, the Department considered the submission timely and processed it accordingly.

The day the Department received the submission from Petitioner, the Department sent Petitioner a VCL requesting verifications concerning eligibility related factors. The verifications were due by November 26, 2018. That same day, Ms. Shoemaker began corresponding with Petitioner via email. Over the course of the next twelve days, Petitioner and Ms. Shoemaker exchanged numerous emails. In almost every email sent by her, Ms. Shoemaker clearly requested documentation related to Petitioner's income and an account at [REDACTED] ending in [REDACTED]. In response to those repeated and clear requests, Petitioner consistently provided evasive responses. Ms. Shoemaker concluded that Petitioner was refusing to provide the requested information. After the deadline for providing the verifications had passed, the Department issued to Petitioner two [REDACTED], 2018, documents. One of them informed Petitioner that her FAP case closed, effective October 1, 2018. The other informed Petitioner that her MA case was closing, effective January 1, 2019.

FAP CLOSURE, EFFECTIVE OCTOBER 1, 2018

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.

Petitioner's FAP case had a benefit period certified through September 30, 2018. The Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. In order to certify a new benefit period, the Department must receive the completed form along with all required verifications. BAM 210, p. 11. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period, and the client loses his or her right to uninterrupted FAP benefits. BAM 210, pp. 3, 21.

In this case, Petitioner did not return her completed Redetermination to the Department by the end of the benefit period. Ordinarily, this inaction would have resulted in the closure, effective October 1, 2018, without any opportunity to recoup the lost benefits. However, the Department allowed Petitioner's [REDACTED] 2018, submission to be registered as timely so long as Petitioner provided all required verifications as requested.

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, p. 1. The level of FAP benefits a group receives is impacted by the income of the people in the group. BEM 550 (January 2017), p. 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. The Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. If the time period for providing the verifications passes without having provided the verifications and the benefit period has expired, the case is to be closed as of the end of the benefit period. BAM 130, p. 8.

The Department had reason to believe that Petitioner had income and assets that were not properly reported to the Department. Based on the documents and testimony presented in the hearing, that belief was reasonable based on the fact that Petitioner had submitted documents to the Department related to her application for housing assistance that were not consistent with the information Petitioner provided to the Department. Thus, Petitioner had told one public assistance body one thing about her income while telling the Department something else. In an effort to clear up the confusion, Ms. Shoemaker repeatedly requested the information from Petitioner that would resolve the inconsistency. In response to those requests, Petitioner consistently provided evasive answers that indicated a refusal to provide the verifications.

In order to receive FAP benefits after October 1, 2018, Petitioner had to certify a new benefit period. During the Redetermination process, certain information related to Petitioner's income and assets came into question and created an inconsistency regarding those eligibility factors. In such circumstances, the Department is required to obtain verifications with respect to those factors before certifying a new benefit period. The Department appropriately issued to Petitioner VCLs requesting the information and also communicated electronically with Petitioner to let her know what she needed to ensure she received uninterrupted benefits. Petitioner's evasive and non-responsive replies indicated a refusal to provide the verifications. Accordingly, the Department appropriately issued the November 27, 2018, Notice of Case Action informing Petitioner that her FAP case closed, effective October 1, 2018. The Department's decision is affirmed.

MA CLOSURE, EFFECTIVE JANUARY 1, 2019

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.

Petitioner's MA case was closed for failing to verify her income. The salient facts are the same will not be repeated at length in this section. Of most critical relevance is the fact that there were unresolved questions concerning Petitioner's income, and Petitioner indicated a refusal to provide the verifications requested. For the same reasons stated above, the Department properly closed Petitioner's MA benefits case for failure to provide verifications. The only remaining issue is whether the Department determined the appropriate effective date of January 1, 2019.

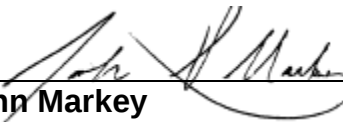
When: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it, the Department sends a negative action notice. BAM 130, p. 8. Timely notice is required to reduce or terminate benefits. BAM 130, p. 9. Timely notice is mailed at least 11 days before the intended negative action take effect. BAM 220, pp. 4-5. The negative action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 5.

On November 27, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice that served as the negative action notice informing Petitioner that her MA benefits were closing, effective January 1, 2019. As it was issued within 11 days from the end of November 2018, it could not be effective for the month of December 2018. Accordingly, the Department, in order to provide timely notice per Department policy, appropriately pending the action until January 1, 2019. Thus, the Department followed Department policy and law in closing Petitioner's MA benefits case, effective January 1, 2019.

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 acted in accordance with Department policy when it closed Petitioner's FAP case effective October 1, 2018, and MA case, effective January 1, 2019. Accordingly, the Department's decisions are **AFFIRMED**.

JM/cg



John Markey
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

Via Email:

MDHHS-Kent-1-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]