



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: April 11, 2019
MAHS Docket No.: 19-002391
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 10, 2019, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor, and Troylynn Washington, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP), Medicare Savings Program (MSP) and Medical Assistance (MA) benefit cases?

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, MSP and MA recipient.
2. On December 3, 2018, Petitioner and his wife completed a Mid-Certification Contact Notice related to their FAP benefit case (Exhibit A).
3. On December 3, 2018, Petitioner completed a Redetermination related to his MA and MSP benefit cases (Exhibit B).
4. On January 3, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of his pension/retirement income (Exhibit C).

5. On January 25, 2019, the Department sent Petitioner a second VCL requesting verification of his pension/retirement income and his savings account (Exhibit D).
6. On February 22, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that his MA and MSP benefit cases were closing effective January 1, 2019, ongoing (Exhibit E).
7. On February 22, 2019, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit case was closing effective April 1, 2019, ongoing (Exhibit F).
8. On March 6, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to his FAP, MSP and MA benefit 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, Petitioner was an ongoing FAP, MA and MSP benefit recipient. In January 2019, the Department conducted a review of his FAP, MA and MSP benefit cases. The Department sent a VCL on January 3, 2019, requesting verification of his pension/retirement income. Proofs were due January 14, 2019. The Department granted Petitioner an extension and sent a second VCL on January 25, 2019, requesting verification of his pension/retirement income and his savings account. Proofs were due by February 4, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 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. 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 (April 2017), p. 7. For MA 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 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. 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 testified that Petitioner did not return verification of his savings and pension/retirement income. As a result, the Department sent a HCCDN on February 22, 2019, informing him that his MA and MSP benefit cases were closing and a NOCA informing him that his and his wife's FAP benefit case was closing.

Petitioner testified that he did not have a savings account. Petitioner stated that he approached his bank to obtain written verification that he did not have a savings account, but the bank denied his request. The only documentation the bank would provide was a statement showing only a checking account in Petitioner's name, which he submitted to the Department. Petitioner also testified that the pension that he was receiving was funds from the government of the United Kingdom (U.K.). Petitioner stated it was not truly a pension but similar to Social Security in the United States. Petitioner testified that he tried to reach out to the governmental entity in January 2019 to receive verification of the income but was having difficulty obtaining the proofs. Petitioner stated the only verification he was able to obtain was his bank statement showing the direct deposit of the income, which he submitted to the Department.

The Department sends a negative action 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. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP, MA and MSP benefit cases.

DECISION AND ORDER

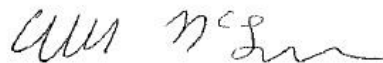
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA, MSP and FAP benefit cases.

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. Redetermine Petitioner's MA eligibility as of January 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide him with coverage he is entitled to receive as of January 1, 2019, ongoing;
3. Redetermine Petitioner's MSP benefit eligibility as of January 1, 2019, ongoing;
4. If Petitioner is eligible for MSP benefits, issue supplements in accordance with Department policy;
5. Redetermine Petitioner's FAP eligibility as of April 1, 2019, ongoing;
6. If Petitioner is eligible for FAP, issue supplements in accordance with Department policy; and
7. Notify Petitioner of its MSP, MA and FAP decisions in writing.

EM/jaf



Ellen McLemore

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

DHHS

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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M Holden
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EQAD