



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

ANN PEOPLES
964 WEST CROSS STREET
YPSILANTI, MI 48197

Date Mailed: September 11, 2019
MOAHR Docket No.: 19-007953
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, an in-person hearing was held on September 9, 2019, from Ypsilanti, Michigan. The Petitioner appeared for the hearing and was represented by Attorney [REDACTED] from [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistant Attorney General, and had [REDACTED] Assistance Payments Worker, appear as a witness.

ISSUE

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

Did the Department properly close Petitioner's Child Development and Care (CDC) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 4, 2019, the Department received Petitioner's Application for FAP and CDC benefits.
2. On March 19, 2019, the Department received the following proofs of assets:
 - a. [REDACTED] account for Petitioner with an account number ending in 2068;

- b. [REDACTED] [REDACTED] account ending in 6514 for [REDACTED] and Petitioner dated February 12, 2019; and,
 - c. [REDACTED] Bank account ending in 9418 for Petitioner.
3. On another undetermined date(s), the Department received the following verifications of assets:
 - a. A duplicate copy of [REDACTED] [REDACTED] account ending in 6514 for [REDACTED] [REDACTED] and Petitioner dated February 12, 2019;
 - b. [REDACTED] account ending in 3408 for [REDACTED];
 - c. Closed accounts ending in 1291, 1288, 1307 for an unnamed bank for [REDACTED]; and,
 - d. Active account ending in 1257 for an unnamed bank for [REDACTED]
4. On April 5, 2019, the Department issued a Verification Checklist (VCL) to Petitioner requesting verification of her checking and savings accounts as well as earned and unearned income by April 15, 2019.
5. On April 9, 2019, the Department requested an Asset Detection for Petitioner's household members.
6. On April 13, 2019, the Department received the completed Asset Detection Report showing the following accounts:
 - a. [REDACTED] Bank account for [REDACTED] and Petitioner for an account ending in 1286;
 - b. [REDACTED] Bank account ending in 1294 for [REDACTED] and Petitioner;
 - c. [REDACTED] Bank account ending in 1307 for Petitioner and [REDACTED];
 - d. [REDACTED] Bank account ending in 9418 for Petitioner;
 - e. [REDACTED] Bank account ending in 9426 for Petitioner; and,
 - f. [REDACTED] Bank account ending in 9434 for Petitioner.
7. On April 18, 2019, the Department issued a second Verification Checklist (VCL) to Petitioner requesting verification of Petitioner's Savings Account as well as earned and unearned income by April 29, 2019.
8. On June 12, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefits had been closed effective July 1, 2019 for

failure to return a balance statement for a savings account with █████ Bank for Petitioner.

9. On July 19, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of her FAP and CDC benefits as well as the Department's failure to issue notices regarding the denials.
10. On July 29, 2019, the Department reinstated Petitioner's CDC benefits with no lapse in coverage.
11. At the hearing, the Department provided an Eligibility Summary to Petitioner and her Attorney showing that there had been no lapse in coverage of CDC benefits; therefore, Petitioner withdrew her request for hearing as it relates to the CDC program and there was no objection from the Department.

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).

Child Development and Care (CDC)

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

At the hearing, Petitioner was satisfied that the Department had reinstated Petitioner's CDC benefits with no lapse in coverage. Therefore, Petitioner withdrew her hearing request and there was no objection from the Department. Having found good cause, Petitioner's request for hearing as it relates to the CDC Program is DISMISSED.

Food Assistance Program (FAP)

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, the Department closed Petitioner's Food Assistance Program (FAP) benefits case based upon a failure to verify a savings account from █████ Bank. Petitioner disputes the Department's assertion and testified that she had submitted verification of the █████ bank account on March 19, 2019 in addition to additional verifications provided on April 19, 2019.

Policy provides that the Department usually requires verification of household circumstances at application, redetermination, or reported changes. BAM 130 (April 2017), p. 1. In addition, the Department is required to give clients ten days to provide the requested verification. BAM 130, p. 7. Negative Action Notices are sent when a client indicates a refusal to provide a verification or the time period given has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Assets and income are used in determining FAP and MA eligibility. BEM 400 (April 2019), p. 1; BEM 500 (July 2017), p. 13. Therefore, the Department's efforts to verify Petitioner's bank account assets as well as income were pursuant to policy. In addition, policy provides that asset detections may only occur at application or redetermination. BAM 210 (April 2019), p. 2; BAM 110 (April 2019), pp. 3-4. Since Petitioner had recently applied for FAP benefits, the asset detection was in accordance with Department policy.

Prior to the Department's issuance of any VCLs and the asset detection, Petitioner had submitted proof of multiple bank accounts for several household members. Once the Department completed the Asset Detection, a second VCL was issued to Petitioner requesting proof of an unidentified savings account for Petitioner. Policy provides that the Department must tell the client what verification is required, how to obtain, and the due date. BAM 130, p. 3. The Department did not specifically identify which accounts it was seeking on the VCL. Given that Petitioner had already submitted a significant number of account verifications for herself and members of her household, and because there is no evidence that the accounts were previously discussed or identified by the parties, the Department should have listed the accounts that it was seeking on the VCL to ensure that both parties were clear on what documentation was needed. By listing the requested accounts, the Department would have been in compliance with BAM 130.

In addition to concerns related to the sufficiency of the VCL, Petitioner credibly testified at the hearing that she had attempted to provide additional verifications to the Department on April 19, 2019 when she dropped off items at the window of the local office. She remembers that she dropped off the items on that day because she had communicated with another Department employee on April 18th about the asset detection, and on April 19th, the school district where she works had a half day, so she had the time to personally deliver the documentation. Given Petitioner's detailed description of how and when she delivered additional bank verifications, Petitioner's testimony is credible. It should also be noted that on August 7, 2019, Petitioner's Attorney sought to have Petitioner's case worker verify that the items had been submitted to the Department on April 19, 2019; however, Petitioner's case worker failed to check the log which would show whether or not any verifications had been submitted by Petitioner on that day but admits that errors happen in the processing of documents.

Since Petitioner credibly testified that she had submitted the documentation on April 19, 2019, the Department took no steps to determine whether in fact Petitioner had submitted the documents via the log at the front desk, and because the Department admits that errors happen, the Department has not met its burden of proof in establishing that it properly closed Petitioner's FAP case for failure to verify assets. All evidence suggests that Petitioner made a good faith effort to provide requested documentation.

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 for failure to verify assets.

DECISION AND ORDER

Petitioner's request for hearing as it relates to the **CDC** Program is **DISMISSED**.

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 FAP eligibility effective July 1, 2019;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/tm



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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Counsel for Respondent

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Counsel for Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]
[REDACTED]