



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 17, 2017
MAHS Docket No.: 17-001475
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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; 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 8, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits and process Medical Assistance (MA) benefits for Petitioner's two nieces?

FINDINGS OF FACT

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

1. In June 2016 Petitioner became the legal guardian of her two nieces, Child A and Child B.
2. On an unverified date, Petitioner applied for FIP and MA benefits for Child A and Child B as an ineligible grantee. Petitioner only requested FIP and MA benefits for the two children.
3. The Department previously had verification of Child A and Child B's school enrollment/student information on file. (Exhibit A, p.4; Exhibit D)

4. On an unverified date, FIP benefits for Child A and Child B were approved.
5. According to the Eligibility Summary, effective September 1, 2016, Child A and Child B were approved for MA under the Low Income Families Under 19 (LIF-U19) category. The children continued to be approved for LIF-U19 with no lapse through March 1, 2017, ongoing. (Exhibit B)
6. Child A and Child B's FIP benefits were terminated effective December 1, 2016.
7. On or around [REDACTED], 2016, Petitioner reapplied for FIP and MA benefits for Child A and Child B, as an ineligible grantee. Petitioner only requested FIP and MA benefits for the two children.
8. On [REDACTED], 2016, a FIP application interview was conducted between Petitioner and her case worker at the Department. According to the Case Comments-Summary, the Department noted that Child A and Child B were enrolled in school and attending [REDACTED]. (Exhibit D)
9. In connection with the [REDACTED], 2016, application, the Department sent Petitioner a Verification Checklist (VCL) dated December 8, 2016, instructing her to submit verification of: her property taxes; checking and savings account; wages/income; heating and electrical expenses; and school attendance for Child A and Child B by December 19, 2016. (Exhibit A, pp. 14-15)
10. Petitioner timely submitted all of the requested verifications with the exception of the verification of student information. (Exhibit A, p. 4)
11. On December 27, 2016, the Department sent Petitioner a Notice of Case Action advising her that the FIP application was denied on the basis that verification of school attendance was not returned for Child A and Child B. (Exhibit A, pp. 16-17)
12. On or around January 17, 2017, Petitioner submitted acceptable verification of school attendance for Child A and Child B. (Exhibit A, p. 4)
13. On January 30, 2017, Petitioner requested a hearing disputing the Department's actions.

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).

MA

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 requested a hearing disputing the Department's actions with respect to the MA program. Petitioner clarified that she requested a hearing to confirm that her husband and son were not included in the MA group, as she had just requested MA for Child A and Child B. The evidence established that Child A and Child B had active and ongoing MA benefits since September 1, 2016, with no lapse in coverage. (Exhibit B; Exhibit C). The Department also presented documentation to show that Petitioner's husband and son were not added to the MA group and did not receive MA benefits. Based on the evidence presented, there was no negative action taken by the Department with respect to the MA program prior to Petitioner's January 30, 2017, request for hearing. See BAM 600 (October 2015). As such, Petitioner's hearing request with respect to MA is DISMISSED for lack of jurisdiction.

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2016), 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. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FIP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-8. 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, pp. 7-8.

In this case, the Department testified that although Petitioner timely submitted most of the requested verifications, because she did not submit verification of school attendance for Child A and Child B by the due date, it sent her a Notice of Case Action dated December 27, 2016, advising of the denial of the application. The Department confirmed receiving the verifications on January 17, 2017. At the hearing, Petitioner confirmed receiving the VCL and stated that she submitted all requested verifications. Petitioner credibly testified that after submitting her FIP application, she had an application interview with her case worker during which she was informed that because the Department previously had sufficient verification of the children's school attendance, she was not required to resubmit the information. Petitioner's testimony was corroborated by the Case Comments Summary which indicates that the Department had acceptable verification of school information for the children. (Exhibit D). Therefore, because Petitioner did not indicate a refusal to provide the verifications and made a reasonable effort to provide the requested information, the Department did not act in accordance with Department policy when it denied Petitioner's FIP application.

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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED], 2016, FIP application.

Accordingly, the hearing request with respect to MA is **DISMISSED** and the Department's FIP 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. Register and process Petitioner's [REDACTED], 2016 FIP application to determine her eligibility for FIP benefits from the application date, ongoing;
2. Issue supplements to Petitioner for any FIP benefits that she was eligible to receive but did not from the application date, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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) 335-6088; 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:

DHHS Hearings Coordinator – 19 – 1843
BSC4 Hearing Decisions
G. Vail
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
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[REDACTED]
[REDACTED]