



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 18, 2017
MAHS Docket No.: 17-007605
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; 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 July 13, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearing Facilitator and Patricia Woods. [REDACTED] served as Bengali Interpreter.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) 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 recipient of FAP and MA benefits.
2. In connection with a redetermination, Petitioner's FAP and MA eligibility was reviewed.
3. Based on information provided by Petitioner to the Department at a redetermination interview, the Department determined that Petitioner's expenses exceeded his reported income of \$0 and subsequently, the Department referred

Petitioner's case to the Office of Inspector General (OIG) for a FEE Investigation. (Exhibit A, pp. 6-7)

4. According to the FEE Investigative Findings, Petitioner reported that he owned a home in [REDACTED], [REDACTED] from which he receives rental income. Petitioner reported that he sometimes gets assistance from family and friends. (Exhibit A, pp. 6-7)
5. The Department asserted that Petitioner previously owned a home at [REDACTED] [REDACTED] that he sold in September 2016 and failed to report the ownership and sale to the Department. (Exhibit A, pp. 6-7)
6. Petitioner asserted that he never owned the [REDACTED] property and that the person on the title has a different name than him. (Exhibit A, pp. 6-7)
7. On May 2, 2017, the Department sent Petitioner a Verification Checklist (VCL) instructing him to submit proof of his bank statements (checking and savings accounts) and verification of home/building (mortgage or deed, current property tax records, or county records) by May 12, 2017. (Exhibit A, pp. 4-5)
8. On May 9, 2017, Petitioner submitted proof of his bank statements and proof of the mortgage for the home he owned in [REDACTED].
9. On May 17, 2017, the Department sent Petitioner a Notice of Case Action and a Health Care Coverage Determination Notice advising him that effective June 1, 2017, his FAP and MA cases would be closed on the basis that he failed to verify requested information. (Exhibit B; Exhibit C)
10. On May 22, 2017, Petitioner requested a hearing disputing the Department's actions indicating that he submitted the requested documents. (Exhibit A, pp. 2-3)

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.

Additionally, 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. 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, pp. 3-4.

For FAP cases, clients are given 10 calendar days (or other time limit specified in policy) 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.

For MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

In this case, the Department testified that in connection with a FEE investigation, it sent Petitioner a VCL instructing him to submit proof of his bank account asset information and verification of his mortgage. Initially, the Department testified that Petitioner did not respond to the VCL and did not submit the requested information. However, later in the hearing, the Department confirmed that on May 9, 2017, it received verification of bank account information and verification of the mortgage payment for Petitioner's rental property in [REDACTED]. The Department later stated that because the bank account statements submitted by Petitioner were for accounts other than what the Department had on file, they were unacceptable. The Department stated that there was a discrepancy with the information/bank statements provided by Petitioner. However, there was no evidence presented that the Department notified Petitioner of the discrepancy or provided him with an opportunity to resolve the discrepancy prior to the case closure as required.

Additionally, the Department stated that with the VCL, it was requesting Petitioner verify his ownership or transfer of ownership for the [REDACTED] home and that Petitioner's submission of the mortgage or home ownership information for the [REDACTED] property was insufficient. However, a review of the VCL shows that the Department did not specifically advise Petitioner of what information was requested, and for what property it was requesting information of. Based on the evidence presented, the Department did not establish that Petitioner failed to verify requested information as instructed in the VCL.

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 closed Petitioner's FAP and MA cases on the basis that he failed to verify requested information.

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 Petitioner's FAP and MA cases effective June 1, 2017;
2. Issue FAP supplements to Petitioner for any FAP benefits he and his group members were eligible to receive but did not from June 1, 2017, ongoing;
3. Provide Petitioner and his MA household with MA benefits they were eligible to receive but did not from June 1, 2017, ongoing; and
4. Notify Petitioner in writing of its decisions.



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:

DHS-Wayne-55-Hearings
BSC4 Hearing Decisions
EQAD
M. Best
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

