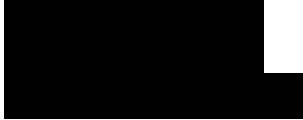




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 20, 2017
MAHS Docket No.: 17-009966
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 September 11, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Rebecca Johnson, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) and Family Independence Program (FIP) cases?

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) 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. Petitioner was an ongoing recipient of MA benefits.
2. Petitioner was previously a recipient of FAP benefits and on an unverified date, Petitioner's FAP case closed.
3. On [REDACTED], 2017, Petitioner reapplied for FAP benefits.

4. On June 5, 2017 and in connection with the FAP application, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of vehicle value and ownership, identity, property taxes, and bank account (checking) asset information by June 15, 2017. (Exhibit A, pp. 5-6)
5. Petitioner did not return the requested verifications by June 15, 2017.
6. On July 11, 2017, the Department sent Petitioner a Notice of Case Action advising her that the [REDACTED], 2017 FAP application was denied on the basis that she failed to return verification of vehicle value and ownership and verification of her checking account. (Exhibit A, pp. 7-10)
7. On [REDACTED], 2017 Petitioner submitted proof of her bank account asset information and the requested verification of her vehicle value and ownership.
8. Petitioner is the legal guardian of her niece and had an active FIP case as an ineligible grantee.
9. Petitioner's FIP case closed effective August 1, 2017 and the Department did not present any evidence with respect to the FIP case closure.
10. On July 21, 2017 Petitioner requested a hearing disputing the Department's actions with respect to her MA, FAP and FIP benefits. (Exhibit A, p. 2-3)
11. There was no negative action taken with respect to Petitioner's MA benefits prior to the hearing. Petitioner verbally withdrew her request for hearing concerning the MA program.

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.

The hearing was requested to dispute the Department's action taken with respect to Petitioner's MA benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood and was satisfied with the actions taken by the Department and did not wish to proceed with the hearing regarding MA. Petitioner stated that there was no issue with her MA benefits, that her case is active and ongoing and that she checked the MA box on her request for hearing by mistake. Petitioner further confirmed that no promises were made in exchange for her withdrawal. The Request for Hearing regarding MA was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing concerning MA is, hereby, **DISMISSED**.

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.

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.

In this case, the Department testified that because it did not receive the requested vehicle and asset verifications by the June 15, 2017 due date identified in the VCL, it sent Petitioner a Notice of Case Action dated July 11, 2017 advising her of the denial of the FAP application. The Notice of Case Action further informed Petitioner of the applicable subsequent processing policy should she submit the verifications and complete the application process within 60 days of the application date. (Exhibit A, pp. 7-10).

At the hearing, Petitioner testified, and the Department confirmed, that on July 12, 2017 she submitted verification of the vehicle title for her Saturn Outlook and a document

showing that the Chrysler 300 had been repossessed. Petitioner also submitted verification of her checking account through Chase Bank and testified that she no longer had a checking account through Best Bank because the bank had closed. The Department further confirmed that the verifications submitted on July 12, 2017 were sufficient and conceded that it did not apply the subsequent processing policy found in BAM 115.

BAM 115 provides guidance for the procedure the Department is to follow when a client completes the FAP application process after denial but within 60 days after the application date. If the client completes the application process on or before the 30th day, the Department is to re-register the application using the original application date and if eligible, determine whether to prorate benefits according to the initial benefits policy. If the application process is completed between the 31st and 60th day, the Department is to reregister the application using the date the client completed the process and if eligible, prorate benefits from the date the client complied. BAM 115 (July 2017), pp.24-25.

In the present case, the evidence established that Petitioner completed the application process after 30 days, as it was undisputed that the verifications were submitted on July 12, 2017. Therefore, the Department was required to apply the subsequent processing policy and prorate Petitioner's FAP benefits (if otherwise eligible) from the date in which the application process was completed.

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 FAP application.

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.

In this case, Petitioner requested a hearing disputing the closure of her FIP case. Petitioner testified that she last received FIP benefits on behalf of her niece in July 2017. Petitioner stated that she was verbally notified by her case worker that the FIP case would close but the reason for the case closure was unverified. The Department did not dispute Petitioner's testimony that her FIP benefits were terminated effective August 1, 2017. However, the Department did not present any evidence documentary or otherwise in support of the case closure and failed to establish that Petitioner was provided with timely notice of the case closure as required.

Although the Department testified that after the hearing request, Petitioner reapplied for FIP benefits and the application was denied, this issue was not addressed, as it is determined to be a subsequent negative action taken by the Department which requires Petitioner to submit a new hearing request should she so choose. See BAM 600.

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 FIP case effective August 1, 2017.

DECISION AND ORDER

Accordingly, the hearing request with respect to MA is DISMISSED and the Department's FAP and FIP decisions are **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. Re-register and process Petitioner's FAP application using the date in which she completed the application process, [REDACTED], 2017;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from [REDACTED], 2017, ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy;
3. Reinstate Petitioner's FIP case effective August 1, 2017;
4. If Petitioner is eligible for FIP benefits, issue FIP supplements to Petitioner from August 1, 2017, ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy; and
5. 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:

MDHHS-Wayne-17-Hearings
BSC4 Hearing Decisions
D. Shaw
D. Sweeney
B. Cabanaw
M. Holden
MAHS

Petitioner – Via First-Class Mail:

