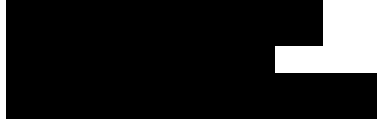




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 22, 2017
MAHS Docket No.: 17-010137
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 19, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Diane Brown, Eligibility Specialist and Darrin McMurtry, Assistance Payments Supervisor.

ISSUE

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

Did the Department properly close Petitioner's Medical Assistance (MA) case and deny his subsequent application for MA 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 FAP and MA benefits under the Healthy Michigan Plan (HMP) category. (Exhibit B)
2. On March 16, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective April 1, 2017 his MA case would be closed on the basis that he failed to return a supplemental questionnaire. The Health Care Coverage Determination Notice also advised Petitioner that he was no longer eligible for MA under the HMP because he is eligible for or enrolled in Medicare. (Exhibit C)

3. The March 16, 2017 Health Care Coverage Determination Notice further informed Petitioner that the Department must receive his request for appeal or request for hearing within 90 days of the mailing date of the notice, by June 14, 2017. (Exhibit C)
4. On [REDACTED], 2017 Petitioner reapplied for MA benefits.
5. In connection with a Mid-Certification Contact Notice, Petitioner's eligibility to receive program benefits was reviewed. Petitioner timely submitted a completed Mid-Certification Contact Notice and reported changes with respect to his assets, among other information. (Exhibit A, pp. 16-18)
6. On June 7, 2017, the Department sent Petitioner a Verification Checklist (VCL) instructing him to submit proof of his property taxes, home/building expenses, special assessments, and checking account information by June 19, 2017. (Exhibit A, pp. 10-11)
7. With the VCL, the Department sent Petitioner DHS-20 Verification of Asset forms for his accounts at Huntington, PNC, and Charter One banks. (Exhibit A, pp.12-15)
8. The VCL informed Petitioner that he was to return one of the following as sufficient verification of his checking accounts: a current statement from the bank or financial institution or the DHS-20 Verification of Assets form. (Exhibit A, pp. 10-11)
9. On June 18, 2017 the Department timely received verification of bank account information from Charter One and on an unverified date received the requested property tax/housing expense information.
10. The Department did not receive verification of Petitioner's bank accounts with Huntington and PNC banks.
11. Although the Department also did not receive proof of special assessments for Petitioner's housing, it conceded that the information was not needed for an eligibility determination and would only impact his FAP benefit amount, if approved.
12. Petitioner confirmed that he did not contact the Department prior to the June 19, 2017 due date to request assistance with obtaining the verifications or to request an extension of time to submit the verification of bank account information.
13. On June 21, 2017 the Department sent Petitioner a Notice of Case Action advising him that effective August 1, 2017 his FAP case would be closed because verification of bank account checking (for Huntington and PNC) was not returned. (Exhibit A, pp. 4-5)
14. On July 12, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective June 1, 2017 he was ineligible for

MA benefits on the basis that he failed to provide verification of bank account checking information within the specified timeframe. (Exhibit A, pp. 2-3)

15. On July 27, 2017 Petitioner requested a hearing disputing the Department's actions with respect to his FAP and MA benefits, asserting that he provided the banks with the forms to complete and return to the Department. (Exhibit A, pp. 19-20)

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.

Department policy provides that a client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (April 2017), p. 2. Moreover, a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, p. 6. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided; delay of any action beyond the standards of promptness; or for FAP only, the current level of benefits or denial of expedited service. BAM 600, pp.4-5.

In this case, the evidence established that Petitioner had been an ongoing recipient of MA benefits under the HMP and that on March 16, 2017 the Department sent him a Health Care Coverage Determination Notice (Notice) advising him that effective April 1,

2017 his MA case would be closed due to a failure to return a supplemental questionnaire. The Notice further informed Petitioner that he was found ineligible for continued HMP benefits, as he was enrolled in or eligible for Medicare. (Exhibit C). Petitioner confirmed receiving the case closure notice. Petitioner did not file a hearing request to dispute the Department's actions until July 27, 2017. There was no evidence presented that Petitioner submitted a hearing request prior to this date and no evidence that the Department sent Petitioner any other eligibility notices regarding his MA case after March 16, 2017, and prior to the July 12, 2017 notice referenced above. Therefore, based on the evidence presented, because Petitioner's hearing request was not timely filed within 90 days of the Health Care Coverage Determination Notice, the hearing request regarding the closure of Petitioner's MA case effective April 1, 2017 is **DISMISSED** for lack of jurisdiction.

The evidence further established that Petitioner reapplied for MA benefits on [REDACTED], 2017 and during this same period, his FAP case was due for review. In connection with the MA application and Mid-Certification Contact Notice, the Department requested that Petitioner submit verifications needed to determine his eligibility for FAP and MA benefits.

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.

At the hearing, the Department testified that although it timely received some of the verifications requested in the VCL, because it did not receive verification of bank account checking information from Huntington and PNC banks by the June 19, 2017

due date and because it did not receive any contact from Petitioner requesting assistance in obtaining the verifications or an extension, it sent Petitioner the Notice of Case Action dated June 21, 2017 notifying him of the FAP case closure effective August 1, 2017 and the July 12, 2017 Health Care Coverage Determination Notice advising him of his MA ineligibility based on a failure to return verification of bank account information. The Department testified that as of the hearing date, the requested verification of bank account information for Huntington and PNC had not been returned.

At the hearing, Petitioner confirmed receiving the VCL dated June 6, 2017. With respect to the bank account information, Petitioner testified that after receiving the DHS-20 Verification of Asset forms, he went to the three banks (Charter One, Huntington, and PNC) to have the forms completed. Petitioner stated that he was able to have an employee at Charter One complete the form and it was undisputed that he subsequently submitted it to the Department. Petitioner testified that when he went to Huntington and PNC, he was informed that bank policy would not allow for the forms to be completed at a local branch but rather, the bank policy was to have the forms sent to headquarters to be completed.

Petitioner testified that he left the DHS-20 Verification of Asset forms at Huntington and PNC to be forwarded to headquarters for completion and the bank was to send the completed forms to the Department. Petitioner could not recall exactly when he went to the banks to drop off the forms and confirmed that he did not contact the Department to request assistance with obtaining the verifications or to request an extension of time to submit the verifications. Petitioner stated that he did not contact the Department because he was unaware that there would be an issue with the bank submitting the documents to the Department. Petitioner asserted that the Department is holding him responsible for a bank policy that he has no control over and further that he had no knowledge that the banks would be delayed in submitting the forms. Although Petitioner maintained that he had no reason to doubt that Huntington and PNC banks did submit the forms to the Department, Petitioner could not identify a date in which the verifications were submitted and conceded that he did not follow up with Huntington or PNC headquarters to confirm that the verification of asset forms were submitted to the Department.

Furthermore, although the VCL informs Petitioner that he could also submit current bank statements as acceptable verification of checking account information, Petitioner failed to present a compelling argument as to why he could not obtain and timely submit to the Department current bank statements in lieu of the DHS-20 Verification of Asset forms that were sent to Huntington and PNC bank headquarters for completion.

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 because Petitioner did not establish that he provided the Department with requested verification of bank account information, the Department acted in accordance with Department policy when it closed Petitioner's FAP case effective August 1, 2017 and denied his [REDACTED], 2017

MA application. Petitioner is informed that he is entitled to submit a new application for FAP and MA benefits to have his eligibility determined.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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-Oakland-2-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

