



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 25, 2017
MAHS Docket No.: 17-012498
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 24, 2017, from Detroit, Michigan. Petitioner was present and represented himself. Petitioner was also present with [REDACTED]. The Department of Health and Human Services (Department) was represented by Katrina Littles, Hearing Facilitator, and Markita Mobley, Eligibility Specialist. Bengali Interpreter, [REDACTED], was also present.

ISSUE

1. Did the Department properly deny Petitioner application for Food Assistance Program (FAP) benefits?
2. Did the Department properly close Petitioner's wife's Medical Assistance (MA) benefit case?
3. Did the Department properly determine Petitioner was not eligible for the Medicare Savings Program (MSP)?

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's wife was an ongoing MA benefit recipient.
2. On [REDACTED], 2017, Petitioner submitted an application for FAP benefits.

3. On August 14, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's wife's income from employment pursuant to the application for FAP benefits (Exhibit A).
4. On August 14, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was not eligible for MSP benefits effective September 1, 2017, ongoing. Petitioner was also notified that his wife was no longer eligible for MA benefits effective September 1, 2017, ongoing (Exhibit F).
5. On August 21, 2017, Petitioner submitted a copy of a check with a check stub from his wife's income from employment with a check date of August 10, 2017, that included the gross income amount. Petitioner also submitted a second check with a date of August 3, 2017, that did not include the check stub with the gross income amount (Exhibit B).
6. On August 31, 2017, the Department sent Petitioner a Notice of Case Action informing him that his application for FAP benefits was denied for his failure to submit all necessary verifications.
7. On September 6, 2017, Petitioner submitted pay statements from his wife's income from employment (Exhibit C).
8. On September 15, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding his MSP eligibility, the closure his wife's MA case and the denial of his FAP application for benefits.
9. On October 2, 2017, Petitioner submitted verification of his wife's income from employment.

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).

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, Petitioner submitted an application for FAP benefits on [REDACTED], 2017. In the application, Petitioner notified the Department that his wife had income from employment. On August 14, 2017, the Department sent Petitioner a VCL requesting verification of Petitioner's wife's income from employment. The Department requested check stubs or pay statements from the previous 30 days. Proofs were due by August 24, 2017.

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. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 7. 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, p. 7.

On August 21, 2017, Petitioner submitted a copy of a check that was issued to Petitioner's wife by her employer on August 10, 2017. With that particular check, Petitioner included the pay stub that listed his wife's gross earnings. Petitioner submitted another copy of a check that was issued to Petitioner's wife by her employer on August 3, 2017. The August 3, 2017 check did not include the pay stub with the gross earnings.

The Department considered the checks that Petitioner submitted to be insufficient to establish verification of his wife's income from employment. The second check that was submitted did not include the gross earnings. Additionally, the Department requested proof of wages from the previous 30 days of the issuance of the VCL, which would include earnings from July 2017. The Department notified Petitioner that the documents were insufficient and that he needed to submit new verification of his wife's income from employment. On August 31, 2017, the Department sent Petitioner a Notice of Case Action informing him that that his application for FAP benefits was denied for failure to submit verification of employment. As Petitioner had not submitted verification of his wife's income from employment as of August 31, 2017, the Department followed policy when it issued the negative action notice.

On September 6, 2017, Petitioner submitted pay statements from his wife's income from employment. The pay statements were for payments issued on August 3, 2017, August 10, 2017, and August 31, 2017. The pay statements included Petitioner's wife's gross wages. However, the pay statements did not include the name of Petitioner's

wife's employer. As a result, the Department considered the statements to be insufficient.

The Department testified it received sufficient verification of Petitioner's wife's income from employment on October 2, 2017. The Department advised Petitioner that he would need to submit a new application for FAP benefits. Petitioner's [REDACTED], 2017 application was never processed.

The subsequent processing policy states that the Department will reregister an application for FAP benefits if a client completes the application process after denial, but within 60 days after the application date. BAM 115 (April 2017), p. 23. If the client completes the application process within 30 days of the date of application, the Department will re-register the application using the original application date. BAM 115, p. 23. If the client completes the application process between 31 and 60 days beyond the application date, the department will reregister the application using the date the client completed the process. BAM 115, p. 24.

As the Department testified that Petitioner submitted the requisite verifications on October 2, 2017, the Department failed to follow policy when it did not subsequently process his application. Petitioner submitted the necessary verifications between 31 and 60 days of the date of the application. Therefore, the application should be processed as of October 2, 2017.

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.

In this case, the Department testified that Petitioner's wife's MA benefit case was closed for the failure to return a redetermination. The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete renewal is required at least every 12 months. BAM 210, p. 1. For MA cases, Benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 3.

The Department testified that the redetermination was received for Petitioner's wife's MA benefits. The Department conceded Petitioner's wife's MA benefit case was closed in error. Therefore, the Department did not act in accordance with policy when it closed Petitioner's wife's MA case.

The Department testified that Petitioner was not entitled to MSP benefits because he was not enrolled in Medicare Part A. A nonfinancial eligibility requirement of MSP benefits is that the client must be entitled to Medicare Part A. BEM 165 (October 2016), p. 5. The Department testified Petitioner was enrolled in Medicare Part A effective August 1, 2017, and therefore, the determination that he was not eligible for MSP benefits was made in error. Thus, the Department did not follow policy when it determined Petitioner was not eligible for MSP benefits.

DECISION AND ORDER

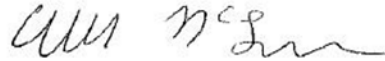
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not subsequently process Petitioner's application for FAP benefits as of October 2, 2017. The Department did not act in accordance with Department policy when it closed Petitioner's wife's MA case. The Department did not act in accordance with policy when it determined Petitioner was not eligible for MSP benefits.

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. Reregister and reprocess Petitioner's [REDACTED], 2017 application for FAP benefits as of October 2, 2017;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements Petitioner was entitled to receive but did not as of October 2, 2017, ongoing;
3. Inform Petitioner of its FAP decision in writing;
4. Redetermine Petitioner's wife's MA eligibility as of September 1, 2017, ongoing;
5. Provide Petitioner's wife with MA coverage she is eligible to receive for September 1, 2017, ongoing;
6. Notify Petitioner of its MA decision for his wife's benefits in writing;
7. Redetermine Petitioner's MSP eligibility as of September 1, 2017, ongoing;

8. If Petitioner is eligible for MSP, issue supplements for MSP benefits he was entitled to receive but did not as of September 1, 2017, ongoing; and
9. Notify Petitioner of its MSP decision in writing.



EM/

Ellen McLemore
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

DHHS

MDHHS-Wayne-55-Hearings

Petitioner



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