



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 3, 2017
MAHS Docket No.: 17-011228 & 17-012937
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, an in-person hearing was held on October 26, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing with his fiancé [REDACTED] and represented himself. Petitioner's Authorized Hearing Representative (AHR) [REDACTED] was not present for the hearing and Petitioner elected to proceed in her absence. The Department of Health and Human Services (Department) was represented by Rebecca Johnson, Assistance Payments Worker and Chanel Bristol, Assistance Payments Worker.

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 previously an ongoing recipient of FAP benefits and MA benefits.
2. Petitioner's FAP and MA cases were closed effective July 1, 2017 and a prior administrative hearing was held addressing the case closures. At the time of the prior hearing, MA benefits for Petitioner's children remained open. (See Hearing Decision for MAHS Docket Nos. 17-009802 and 17-010218).

3. At times relevant to the current case closures and his current requests for hearing, Petitioner was using the Department's office as his mailing address. The mailing address being used for Petitioner's case is [REDACTED].
4. On [REDACTED], 2017 Petitioner reapplied for FAP benefits and was approved for FAP benefits in the prorated amount of \$314 for the period of July 17, 2017 to July 31, 2017. Petitioner was also approved for MA benefits for July 1, 2017, ongoing. (Exhibit A, p. 13; Exhibit B, p. 19)
5. In connection with the new application, on July 17, 2017 the Department sent Petitioner a Verification Checklist (VCL) instructing him to submit proof of his daughter's income for the last 30 days by July 27, 2017. (Exhibit A, pp. 7-8)
6. On August 4, 2017 the Department sent Petitioner a Redetermination for his MA case that he was instructed to complete and return to the Department by September 5, 2017. (Exhibit B, pp. 5-12)
7. On August 16, 2017 the Department sent Petitioner a Notice of Case Action advising him that effective August 1, 2017 his FAP case would be closed on the basis that he failed to return the requested verification of income for his daughter. (Exhibit A, pp. 9-12)
8. On August 17, 2017 Petitioner requested a hearing disputing the Department's actions with respect to the closure of his FAP case. Petitioner also checked the box indicating he disputed the Department's actions regarding his MA case, however, it was unclear what negative action was taken on Petitioner's MA case prior to the August 17, 2017 hearing request. (Exhibit A, pp. 2-4)
9. The August 17, 2017 hearing request was assigned MAHS Docket No. 17-011228 and scheduled to be held on October 26, 2017 at 3:00 p.m.
10. On September 18, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective October 1, 2017 his MA case would be closed on the basis that he failed to return the redetermination and/or required proofs. (Exhibit B, pp. 13-17)
11. On September 27, 2017 Petitioner requested a hearing disputing the Department's actions with respect to the closure of his FAP and MA cases. The hearing request specifically indicates that due to Department error, his mail had been misplaced. (Exhibit B, pp. 2-3)
12. The September 27, 2017 hearing request was assigned MAHS Docket No. 17-012937 and scheduled to be held on October 26, 2017 at 3:30 p.m.
13. Petitioner's August 17, 2017 and September 27, 2017 hearing requests were consolidated for hearing purposes without objection and because both requests

involve the same programs at issue and are related, one Hearing Decision will be issued addressing both hearing requests.

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.

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.

With respect to the closure of Petitioner's FAP case, the Department testified that because Petitioner did not return the requested verification of his daughter's income by the due date reflected on the VCL, it sent him a Notice of Case Action dated August 16, 2017, advising of the case closure. At the hearing and in his August 17, 2017 hearing request, Petitioner asserted that his daughter had moved from the household. The evidence established that Petitioner is using the Department's Greenfield/Joy office as his mailing address. Petitioner also asserted that he did not receive the July 17, 2017 VCL and the August 16, 2017 Notice of Case Action, which is why he did not submit the requested income verification. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, may be rebutted by evidence.

Stacey v Sankovich, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). A review of the VCL and Notice of Case Action shows that it was sent to Petitioner's confirmed mailing address.

Petitioner testified that the Department had filed his mail in the wrong place and that during the period between July 2017 and September 2017, he came to the local office on several occasions to check his mail and was informed that there was no mail available for him. A letter sent to the Michigan Administrative Hearing System from Tara Roland, Hearing Coordinator confirms Petitioner's testimony that his mail was placed in an incorrect bin (Exhibit 1). Although the letter from Ms. Roland does not expressly indicate that Petitioner's mail was misfiled for the entire period between July 2017 and September 2017, Petitioner has presented sufficient evidence to rebut the presumption that he received the VCL. Therefore, the FAP case closure based on a failure to submit requested verifications was improper.

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 Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (July 2017), p. 1. Additional verifications may be required at redetermination or renewal. For MA cases, verifications are due the same date as the redetermination packet. The Department allows a client a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 16. For MA cases, benefits stop at the end of the benefit period unless a renewal is completed, requested verifications are received and a new benefit period is certified. BAM 210, p. 3. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p.14.

At the hearing, the Department testified that because it did not receive a completed redetermination from Petitioner by the September 5, 2017 due date, it sent him a Health Care Coverage Determination Notice on September 18, 2017 advising him of the MA case closure for himself and his children effective October 1, 2017. As referenced above, Petitioner argued that the Department had misfiled his mail, so he was not timely made aware that he was required to complete the redetermination. Petitioner asserted that he spoke to his case worker and was informed that he needed to complete the redetermination and asked that it be left at the front desk so that he could come to the local office to complete the redetermination prior to his case closing. Petitioner

maintained that he came to the local office on more than one occasion and the redetermination form was not available for him to complete. Petitioner stated that he signed his name on the sign in logs as verification. During the hearing, the sign in logs for the period of September 1, 2017 to September 30, 2017 were reviewed and it was discovered that Petitioner's name appeared on the logs on four different dates.

Upon further review and based on the totality of the record, 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 MA case effective October 1, 2017.

DECISION AND ORDER

Accordingly, the Department's FAP and MA 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. Reinstate Petitioner's FAP case effective August 1, 2017;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from August 1, 2017, ongoing, for any FAP benefits he was eligible to receive but did not, in accordance with Department policy;
3. Reinstate Petitioner and his children's MA case effective October 1, 2017;
4. Provide Petitioner and his children with MA coverage from October 1, 2017, ongoing, in accordance with Department policy; and
5. Notify Petitioner and his AHR of its decisions in writing.

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
EQAD
M. Best
M. Holden
D. Sweeney
MAHS

Petitioner – Via USPS

[REDACTED]

Counsel for Petitioner – Via USPS

[REDACTED]