



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 7, 2017
MAHS Docket No.: 17-013201
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 November 6, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's applications for Medical Assistance (MA), Food Assistance Program (FAP) benefits, and Child Development and Care (CDC) 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. On [REDACTED], 2017, Petitioner submitted an application for MA, CDC and FAP benefits.
2. On August 8, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her self-employment wages (Exhibit A).
3. On August 17, 2017, Petitioner submitted her contract between herself and her employer. Petitioner also submitted some of her wages for June, July and August 2017 (Exhibit E).

4. On [REDACTED], 2017, the Department conducted an interview with Petitioner related to the application.
5. On August 31, 2017, the Department sent Petitioner another VCL (Exhibit C). The Department also sent Self-Employment Income and Expense Statement Forms (Exhibit F).
6. On September 1, 2017, the Department sent another VCL (Exhibit D) and more Self-Employment Income and Expense Statement Forms (Exhibit G).
7. On September 11, 2017, Petitioner submitted a federal tax return summary for 2016 (Exhibit H).
8. On September 21, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was ineligible for MA benefits effective November 1, 2017, ongoing, for her failure to submit the required verifications.
9. The Department did not send a Notice of Case Action regarding Petitioner's CDC and FAP benefits, but submitted the Eligibility Summary which indicates Petitioner's applications for CDC and FAP benefits were denied.
10. On October 2, 2017, the Petitioner submitted a request for hearing disputing the Department's actions.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner submitted an application for MA, CDC and FAP benefits on [REDACTED], 2017. Petitioner indicated in the application she was employed by [REDACTED]. Petitioner was employed as an independent contractor. On August 8, 2017, the Department sent Petitioner a VCL requesting verification of her self-employment income.

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, MA and CDC 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 (April 2017), p. 7. For MA cases, if the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 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, p. 7.

The primary source for verification of self-employment is an income tax return. BEM 502 (July 2017), p. 7. The secondary source is a Self-Employment Statement with income receipts. BEM 502, p. 7. The third source is a Self-Employment Statement without receipts. BEM 502, p. 7. For MA, the Department will accept Forms 1040, 1040NR, 1040EZ, 1041, Federal income tax returns, or a Schedule C, including all attachments. BEM 502, p. 7. Self-Employment Statement forms are not acceptable verification for MA purposes. BEM 502, p. 8.

On August 17, 2017, Petitioner submitted her contract with her employer and some of her wages over the previous months. On [REDACTED], 2017, the Department conducted an interview with Petitioner regarding her applications. The Department testified that during this interview Petitioner was advised the verifications she had submitted on August 17, 2017, were insufficient to verify her self-employment income. Petitioner had started her employment in March 2017. Therefore, the Department testified Petitioner was allegedly informed she could not submit her tax return from 2016 as verification of her wages, as it would not reflect her new income from 2017. The Department stated

Petitioner was told she needed to either submit her hours and pay history from March 2017 to the current date or she could submit the Self-Employment Forms. The Department sent additional VCLs to Petitioner on August 31, 2017, and September 1, 2017, requesting verification of Petitioner's self-employment income. The Department also sent Petitioner Self-Employment Forms on August 31, 2017, and September 1, 2017.

On September 11, 2017, Petitioner submitted a federal tax return summary for 2016. The Department believed Petitioner had not sufficiently verified her self-employment income. Therefore, the Department sent Petitioner a Health Care Coverage Determination Notice on September 21, 2017, informing Petitioner that she was not eligible for MA benefits due to her failure to submit all required verifications. The Department never sent a Notice of Case Action to Petitioner informing her that her CDC and FAP applications had been denied. However, the Department testified the applications were denied as a result of Petitioner's failure to submit proper verification of her self-employment income.

Petitioner testified that she contacted the Department and informed her worker that she was unable to provide receipts of her wages. Petitioner stated she was informed that it would be acceptable to submit a tax return for 2016. As a result, Petitioner submitted her tax return summary for 2016.

The Department did not provide a witness to the conversation where it alleged Petitioner was informed she could not submit a tax return. Petitioner credibly testified that she was informed that a tax return was acceptable. The VCLs sent on August 31, 2017, and September 1, 2017, specifically state that an acceptable form of proof is a recent income tax return. Also, according to policy, tax documents are the only acceptable form of verification for MA cases. The fact that the Department would specifically advise Petitioner to submit anything other than the acceptable tax documents is contrary to policy. Additionally, the Department never sent Petitioner written notice of the negative action regarding her applications for CDC and FAP benefits, as required by policy. Therefore, the Department failed to establish that it followed policy when it denied Petitioner's applications for MA, CDC and FAP benefits, as Petitioner submitted a summary of her tax return.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's applications for MA, CDC and FAP benefits.

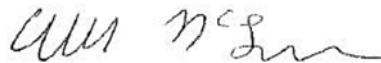
Accordingly, the Department's decision is **REVERSED**.

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 application for FAP, CDC and MA benefits.
2. If Petitioner is eligible for FAP, CDC and/or MA benefits, issue supplements Petitioner was eligible to receive but did not as a result of the denial of her FAP, CDC, and MA benefits.
3. Notify Petitioner of its FAP, CDC and MA decisions 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-Macomb-20-Hearings

Petitioner



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