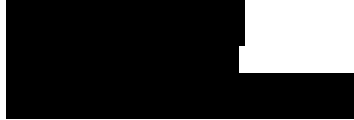




RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 28, 2017
MAHS Docket No.: 17-013605
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 15, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Adam Slate, Hearing Facilitator.

ISSUES

1. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?
2. Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

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 FAP, MA and Medicare Savings Program (MSP) MSP recipient.
2. On August 29, 2017, Petitioner submitted a completed redetermination for her FAP, MA and MSP benefits (Exhibit A).
3. On September 5, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's bank accounts (Exhibit B).

4. On September 14, 2017, Petitioner submitted verification of her two active bank accounts (Exhibit C).
5. The Department closed Petitioner's FAP benefit case effective October 1, 2017, ongoing, but did not send a Notice of Case Action (Exhibit E).
6. On September 20, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective November 1, 2017, ongoing (Exhibit G).
7. On October 5, 2017, Petitioner submitted verification of the transfer of her third bank account.
8. On October 5, 2017, Petitioner submitted a request for hearing disputing the Department's actions.
9. On October 25, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for full-coverage MSP benefits effective November 1, 2017, ongoing.

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 a redetermination on August 29, 2017. In the redetermination, Petitioner did not complete the asset portion of the form. However, the Department had record that Petitioner had three bank accounts. As a result, the Department sent Petitioner a VCL requesting verification of her bank accounts on September 5, 2017. Proofs were due September 15, 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 MA 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, the Department will 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.

Petitioner submitted verification of two of her bank accounts on September 14, 2017. However, Petitioner did not submit verification of the third bank account of which the Department had record. As a result, the Department closed Petitioner's FAP benefit account effective October 1, 2017, ongoing. The Department did not send Petitioner a Notice of Case Action informing her of the closure.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2017), p. 2. A notice of case action must specify the following: the action(s) being taken by the department, the reason(s) for the action, the specific manual item which cites the legal base for an action or the regulation or law itself, an explanation of the right to request a hearing and the conditions under which benefits are continued if a hearing is requested. BAM 220, p. 3. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 5. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 5. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 5.

The Department conceded Petitioner was not provided a timely notice of the negative action prior to the action taking place. Therefore, the Department did not follow policy when closing Petitioner's FAP benefit case.

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 closed Petitioner's MA case, including her MSP benefits, effective November 1, 2017. However, the Department sent Petitioner a Health Care Coverage Determination Notice on October 25, 2017, informing Petitioner that she was eligible for full-coverage MSP benefits effective November 1, 2017, ongoing. As there

was no lapse in benefits regarding Petitioner's MSP benefits, the issue is moot and will not be addressed.

There was no evidence the Department reinstated Petitioner's MA health care coverage benefit case. As such, the issue will be addressed. The Department testified Petitioner's MA benefit case was closed effective November 1, 2017, ongoing, for her failure to verify all of her bank accounts, as stated above. Petitioner testified that the third bank account was previously owned by herself and her daughter. Petitioner transferred her interest in the account to her daughter, which she submitted verification of on October 5, 2017 (Exhibit D). Petitioner stated she was not aware that she was required to submit verification of an account that was no longer in her name. As a result, Petitioner did not timely submit verification of the account.

A review of the VCL reveals the Department asked for verification of a savings account and checking account. Petitioner timely submitted verification of her active checking and savings accounts. Relevant policy states that the Department must tell the client what verification is required and to use the VCL to request information. BEM 130, p. 3. Petitioner was not advised in the VCL that she needed to provide verification of the closure/transfer of any inactive accounts. Additionally, the Department sends negative action when a 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. Petitioner made a reasonable effort to provide all of the documentation she believed was requested. Therefore, the Department failed to establish that it properly followed policy when it closed Petitioner's MA benefit case.

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 closed Petitioner's FAP and MA benefit cases.

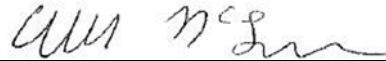
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's FAP eligibility as of October 1, 2017, ongoing;
2. If Petitioner is entitled to FAP benefits, issue supplements she was eligible to receive but did not as of October 1, 2017, ongoing;
3. Redetermine Petitioner's MA eligibility as of November 1, 2017, ongoing;

4. Provide Petitioner with MA coverage she is eligible to receive as of November 1, 2017, ongoing; and
5. Notify Petitioner of its MA and FAP 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-Kalamazoo-Hearings

Petitioner



BSC4
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