



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 15, 2017
MAHS Docket No.: 17-014944
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 December 14, 2017, from Detroit, Michigan. Petitioner was present with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Susan Engel, Hearing Facilitator, and Demetria Yancy, Eligibility Specialist.

ISSUES

1. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?
2. Did the Department properly deny Petitioner's application for Medicare Savings Program (MSP) benefits?
3. Did the Department fail to process Petitioner's application for Medical Assistance (MA) and MSP 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 FAP and MA recipient.

2. On [REDACTED], 2017, Petitioner submitted an application for MA and MSP benefits (Exhibit F). The Department did not issue a decision regarding the [REDACTED], 2017 application for MA or MSP benefits.
3. On [REDACTED], 2017, the Petitioner submitted an application for MA and MSP benefits (Exhibit A).
4. On October 26, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her checking account (Exhibit B).
5. On October 26, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective December 1, 2017, ongoing, for her failure to verify her checking account.
6. On October 26, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was not eligible for MSP benefits effective December 1, 2017, ongoing.
7. The Department did not issue a decision regarding Petitioner's application for MA benefits related to the [REDACTED], 2017 application, because the application was processed solely as an application for MSP benefits.
8. On November 8, 2017, 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).

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 applied for MA and MSP benefits on [REDACTED], 2017. As a result, the Department issued a VCL requesting verification of Petitioner's checking account to determine eligibility on October 26, 2017. Proofs were due by November 6, 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 to provide the verification that is required. 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.

The Department testified that Petitioner submitted verification of her husband's checking and savings account, but not her own checking account, which resulted in the closure of her FAP benefit case. However, the Department issued a Notice of Case Action closing Petitioner's FAP benefit case on October 26, 2017, the same date that the VCL was sent. The Department did not provide Petitioner with the requisite 10-day period to obtain the necessary verifications, as required by policy. Therefore, the Department failed to establish that it followed policy when it closed 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.

Petitioner submitted an application for MA and MSP benefits on [REDACTED], 2017. The Department never issued a decision regarding Petitioner's MA or MSP benefits. The standard of promptness (SOP) begins the date the Department receives an application/filing form, with minimum required information. BAM 115 (October 2017), p. 15. For MA cases, the Department must certify program approval or denial of the application within 45 days. BAM 115, p. 16. Exceptions include: (i) 15 days for all pregnant Medicaid applicants; (ii) 30 days for Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) applicants (iii) 60 days for SDA applicants; (iv) 90 days for MA categories in which disability is an eligibility factor; and (v) the SOP can be extended 60 days from the date of deferral by the Medical Review Team. BAM 115, p. 15.

The Department testified that the [REDACTED], 2017 application was not processed and the [REDACTED], 2017 application was processed for MSP only. The Department stated Petitioner's requests for MA benefits did not result in the issuance of a decision notice, because Petitioner was already receiving MA benefits. Petitioner was approved for MA benefits subject to a deductible in July 2017, and her benefit case had been active through the date of the hearing (Exhibit E). At program transfer, when clients request benefits they are not currently receiving, the Department can use the application on file

if it was approved within 12 months. BAM 115, p. 8. The Department will update the application and data collection to add or change information to transfer among MA categories. BAM 115, p. 8. The Department testified Petitioner was not eligible for any other MA category based on her circumstances. There was no evidence presented that Petitioner provided updated information in the [REDACTED], 2017 or [REDACTED], 2017 applications that would result in a MA program transfer. Therefore, the Department established that it acted in accordance with policy when processing Petitioner's applications for MA benefits.

Although the Department acted in accordance with policy in regard to Petitioner's MA health care coverage benefit case, the Department failed to establish that it properly processed Petitioner's [REDACTED], 2017 application for MSP benefits. Petitioner's MSP benefit case was closed in February 2017 and remained inactive until the date of the hearing. As Petitioner did not have an active MSP case, the Department should have issued a decision within 45 days pursuant to the policy above. The application was submitted on [REDACTED], 2017. The first decision notice regarding Petitioner's MSP benefit case was issued on October 26, 2017, which is beyond the 45-day time limit. Additionally, the Department testified the October 26, 2017 Health Care Coverage Determination Notice was in relation to the [REDACTED], 2017 application. Therefore, the Department failed to establish it properly processed Petitioner's [REDACTED], 2017 application for MSP benefits.

Additionally, the Department testified Petitioner's application for MSP benefits related to the [REDACTED], 2017 application was denied as a result of the same verification issues that resulted in her FAP benefit closure. The Health Care Coverage Determination Notice was also issued on the same date that the VCL was issued. For MA cases, the Department also allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. As stated above, the Department did not follow policy related to the verification issue.

DECISION AND ORDER

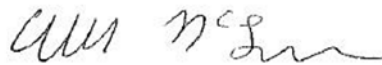
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefit case and failed to process Petitioner's [REDACTED], 2017 MSP application.

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 MSP benefits;
2. If Petitioner is eligible for MSP benefits, issue supplements Petitioner was entitled to receive but did not as a result of the failure to process the [REDACTED], 2017 MSP application;
3. Redetermine Petitioner's FAP eligibility as of December 1, 2017, ongoing;
4. If Petitioner is eligible for FAP benefits, issued supplements she was entitled to receive but did not as of December 1, 2017, ongoing; and
5. Notify Petitioner of its MA MSP and FAP 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-Saginaw-Hearings

Petitioner



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