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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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HARRISON, MI 48625

Date Mailed: May 23, 2018
MAHS Docket No.: 18-003867
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 May 16, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. The Department of Health and Human Services (Department) was represented by Jaimie Kurtz, Eligibility Specialist; and Julie Claffey, Assistant Payment Supervisor.

ISSUES

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective January 11, 2018?

Did the Department properly deny Petitioner's Medical Assistance (MA) application effective January 1, 2018?

Did the Department properly deny Petitioner's Medicare Savings Program (MSP) application effective January 1, 2018?

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 ██████████ 2018, Petitioner submitted an application for FAP, MA, and MSP, benefits. [Exhibit A, p. 1.]
2. On January 11, 2018, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (supplemental questionnaire), which was due back by

January 22, 2018. This document is needed to help determine Petitioner's eligibility for the MA benefits. [Exhibit B, pp. 1-4.]

3. On January 12, 2018, Petitioner's application was processed, and an interview was conducted with Petitioner concerning her application. [Exhibit A, p. 1.]
4. On January 12, 2018, the Department sent Petitioner a Verification Checklist (VCL) to help determine Petitioner's eligibility for the FAP and MSP benefits and it was due back by January 22, 2018. The VCL requested proofs, including all assets and a copy of the trust and the trusts current values. [Exhibit A, pp. 1 and 5-6.]
5. Per the credible testimony of Petitioner, she requested assistance from her caseworker concerning the VCL, but did not receive assistance.
6. Per the credible testimony of Petitioner, she submitted the supplemental questionnaire before the January 22, 2018, due date.
7. On February 2, 2018, the Department sent Petitioner a Notice of Case Action notifying her that her FAP application was denied effective January 11, 2018, because she failed to provide verification of the trust and her unknown unearned income. [Exhibit A, pp. 11-14.]
8. On February 2, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her MSP and MA application was denied effective January 1, 2018, because her income exceeds the limit for the program, she did not give proof of information the Department asked for, and she failed to submit the supplemental questionnaire form. [Exhibit A, pp. 16-19.]
9. On [REDACTED] Petitioner filed a hearing request, protesting the Department's action and she included a "Statement of Account" concerning the trust. [Exhibit A, pp. 2-3.]

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Preliminary matters

First, Petitioner also filed a hearing request, disputing her SER application. [Exhibit A, p. 2.] However, Petitioner indicated she no longer disputed the SER benefits. As a result, Petitioner's hearing request concerning the SER benefits is DISMISSED.

Second, Petitioner also disputed the denial of her FAP and MA application dated [REDACTED] 2017. [Exhibit A, p. 2; Exhibit C, pp. 1-36.] However, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address the denial of Petitioner's FAP and MA application dated [REDACTED] 2017. On January 5, 2018, the Department sent Petitioner a Notice of Case Action notifying her that her FAP application was denied effective December 7, 2017. [Exhibit C, pp. 37-40.] Also, on January 5, 2018, the Department sent Petitioner a determination notice notifying her that her MA application was denied effective December 1, 2017. [Exhibit C, pp. 41-43.] Policy states that the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (January 2018), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. Here, the Department's notices were dated January 5, 2018. [Exhibit C, pp. 37-43.] However, Petitioner did not file a request for hearing to contest the denial of the [REDACTED] 2017 application until April 12, 2017. [Exhibit A, p. 2.] As a result, Petitioner's hearing request was not timely filed within ninety days of the notices and therefore, Petitioner's hearing request concerning the [REDACTED] 2017 FAP and MA application denial is DISMISSED for lack of jurisdiction. See BAM 600, p. 6.

Third, the undersigned does have the jurisdiction to address Petitioner's [REDACTED] 2018 FAP and MA application denial, which will be addressed below:

FAP, MA, and MSP application denial

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2018), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

Tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. Use the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, use your best judgment. BAM 130, p. 3.

For FAP cases, allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates 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. Note, for FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, assist the client with the verifications but do not grant an extension. BAM 130, p. 7. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. BAM 130, p. 7. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. BAM 130, p. 7. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130, p. 7.

For MA cases, allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130, p. 8. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 8.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. BAM 130, p. 8. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

BAM 130, p. 8. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 8. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 8. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

In this case, Petitioner submitted an application for FAP, MA, and MSP benefits on [REDACTED] 2018. [Exhibit A, p. 1.]

On January 11, 2018, the Department sent Petitioner a supplemental questionnaire to determine her eligibility for the MA benefits and it was due back by January 22, 2018. [Exhibit B, pp. 1-4.] However, the Department argued that Petitioner failed to submit the supplemental questionnaire, resulting in the denial of her MA/MSP [REDACTED] [Exhibit A, pp. 1 and 16-19.]

Additionally, on January 12, 2018, Petitioner's application was processed and an interview was conducted with Petitioner concerning her application. [Exhibit A, p. 1.] As a result of the interview, the Department sent Petitioner a VCL and it was due back by January 22, 2018. [Exhibit A, pp. 1 and 5-6.] The Department testified the VCL was sent requesting proof of all assets and a copy of the trust as well as all assets owned by the trust along with current values. [Exhibit A, p. 1.] The Department further testified this was explained to Petitioner during the interview held on January 12, 2018. [Exhibit A, p. 1.] However, the Department argued that Petitioner failed to return proof of the trust and all assets owned by the trust (i.e., Bank of America account) by the due date, resulting in the denial of her FAP and MA/MSP application. [Exhibit A, pp. 1, 11-14, and 16-19.]

In response, Petitioner testified that she submitted the supplemental questionnaire to her caseworker via e-mail on January 18, 2018. In fact, Petitioner provided a copy of supplemental questionnaire she claimed that was submitted to the caseworker, which was also signed on January 18, 2018. [Exhibit 1, pp. 1-5.] Petitioner also provided detailed testimony concerning the verification of the trust. Petitioner testified that she had already provided proof of the trust to the Department. She also testified she had difficulty obtaining verification of the Bank of America account in which the trust funds were located in because she had no access to the account. Prior to the VCL due date of January 22, 2018, she testified she attempted to request assistance from her caseworker, but received no assistance.

Based on the foregoing information and evidence, the undersigned finds that the Department did not act in accordance with Department policy when it denied Petitioner's FAP, MA, and MSP application. The undersigned finds Petitioner's testimony credible that she submitted the supplemental questionnaire to the Department on January 18, 2018, which was before the due date of January 22, 2018. In fact, Petitioner provided a copy of supplemental questionnaire she submitted, which, to the undersigned, only bolsters Petitioner's claim that the document was submitted timely. [Exhibit 1, pp. 1-5.] Further, the undersigned acknowledges that there was lengthy testimony between both parties concerning the verification of the trust, including its current value. But ultimately, the undersigned as well finds Petitioner's testimony credible that she requested assistance from her caseworker concerning the VCL request (i.e., the trust), but did not receive such assistance. And remember, policy states that the client must obtain required verification, *but the local office must assist if they need and request help*. BAM 130, p. 3 (emphasis added). Because the undersigned finds Petitioner's testimony credible that the Department failed to assist the Petitioner with the verification request, it improperly denied the FAP, MA, and MSP application in accordance with Department

policy. See BAM 130, p. 3. It should be noted that Petitioner's caseworker was not present at the hearing to rebut her testimony.

Accordingly, the available evidence does not support a finding that the determination to deny Petitioner's request for FAP, MA, and MSP benefits was in accordance with Department policy. Therefore, the Department's determination to deny Petitioner's request for FAP, MA, and MSP benefits must be reversed.

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 (i) the Department did not act in accordance with Department policy when it denied Petitioner's FAP application effective January 11, 2018; and (ii) the Department did not act in accordance with Department policy when it denied Petitioner's MA and MSP application effective January 1, 2018.


Accordingly, the Department's FAP, MA, and MSP 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. Initiate re-registration and reprocessing of Petitioner's [REDACTED] 2018, FAP and MA/MSP application;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from January 11, 2018, ongoing;
3. Issue supplements to Petitioner for any MA and MSP benefits she was eligible to receive but did not from January 1, 2018, ongoing; and
4. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's hearing request concerning the **SER** benefits and the December 2017 FAP and MA application denial is **DISMISSED**.

EF/hb



Eric J. Feldman
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) 763-0155; 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

Julie Claffey
725 Richard Drive
Harrison, MI 48625

Clare County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

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T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

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