



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 29, 2018
MAHS Docket No.: 18-010006
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 25, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's (CDC) program benefits for failure to verify information?

Did the Department properly deny the Petitioner's application for Food Assistance (FAP), Family Independence Program (FIP) and Medical Assistance (MA) for failure to verify information?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of CDC benefits.
2. On [REDACTED] 2018 the Petitioner applied for FIP, FAP and MA benefits. Exhibit A.
3. On July 20, 2018 the Department sent the Petitioner a Verification Checklist requesting that she provide verification of Home Rent, Checking Account Statement to verify Assets, CDC Need for Employment showing work schedule for hours worked and Income from employment. Exhibit B.

4. On August 16, 2018 the Department sent a Notice of Case Action denying the application for FAP, and FIP and closing the Petitioner's CDC. Exhibit C.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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, the Department closed the Petitioner's CDC case due to her failure to complete a verification of employment need for CDC by the verification checklist due date of July 30, 2018. The Petitioner applied for FIP, FAP and MA on [REDACTED], 2018. The Petitioner also checked CDC as a requested program even though she had an ongoing case. A verification checklist was sent on July 20, 2018 with proofs due on July 30, 2018 and specifically requested as regards CDC, that Petitioner verify CDC

need and return one of the following: work schedule showing number of hours worked, paystub showing number of hours worked or DHS 38 employment verification. The Petitioner testified at the hearing that that she did not receive the verification checklist that was sent to her at the correct address. In addition, at the time of the verification based upon the evidence presented, Petitioner was an ongoing CDC recipient. When her CDC case was closed, it was closed effective September 2, 2018 ongoing. Exhibits B and Exhibit C. The Notice of Case Action issued August 16, 2018 closing her CDC case indicates CDC CLOSURE and she was determined not eligible for CDC services because the verification of Employment Need for CDC (BEM 702, 703) was not returned. Exhibit C.

It is undisputed that the Petitioner did not return the CDC information requested, and also did not return other items requested with regard to her application for food assistance including home rent, checking account statement showing current balance and wages, salaries and tips from employment with [REDACTED] Exhibit B.

The first issue which will be addressed is whether the Department properly closed the Petitioner's CDC case effective September 2, 2018 which was an ongoing CDC case at the time of the [REDACTED] 2018 application. With respect to the CDC issue, the Department closed an ongoing case because Petitioner failed to verify her employment need. There is no indication that [REDACTED] listed as Petitioner's employer on the application was a new employer and the Department did not deny CDC for failure to verify her income as regards CDC. The Petitioner listed [REDACTED] as the only employer listed on the application. Exhibit A, p. 11.

BEM 703 (July 2018) provides that once CDC eligibility has been determined, the children will remain eligible for the entire 12 month certification period, unless the CDC Edge [Eligibility Determination Group] closes for one of the reasons listed in BAM 220. Under BAM 220 (July 2018), p. 20, the Department may close a CDC case for the following reasons:

- Client requests closure.
- Unable to locate.
- Child support non-cooperation (income eligible only).
- Substantiated welfare fraud or IPV sanction.
- Incarceration.
- Loss of Michigan residency.
- Income exceeds the eligibility scale in RFT 270, and the income increase is not Temporary Excess Income; see BEM 505.
- Only authorized child ages out or leaves the home; see BEM 240 for age requirements.
- Minor parent, active on legal guardian's case, turns 18.
- Assets exceed \$1 million.

In this case there was no evidence whatsoever that any of the foregoing closure reasons listed above were applicable in this case as the Petitioner's CDC case was ongoing and in addition it was not closed due to any of these reasons, and was closed for failure to show employment need which is not on the above referenced list in BEM 703.

In addition, there was no demonstrated change in employment presented by the application or by the Department during the hearing. Because the Verification checklist was sent to Petitioner during the ongoing CDC certification period, a failure to verify CDC need-based on employment is **not** a basis for closure. The Department did not act in accordance with Department policy when it closed the Petitioner's CDC case for failure to verify employment need as requested by the verification checklist. In addition, there is no evidence in the record that the closure of the Petitioner's CDC case was due to Petitioner's improper failure to report any of the above items during the twelve-month continuous eligibility period. CDC clients must report within 10 calendar days a change in group composition/death, out-of-state residency, providers or child care setting, assets that exceed \$1 million, and income that exceeds the eligibility income scale in RFT 270 for the group size. They must also report and verify any change that would potentially result in increased benefits. BAM 105 (January 2018), P. 13; BEM 702 (July 2017), p.1. While a client has a responsibility to report if income will exceed the eligibility income scale, the Department did not present any evidence to suggest that it had reason to believe the Petitioner's income from ██████████ resulted in a monthly income in excess of the income limit provided in RFT 270, triggering Petitioner's responsibility to report.

Therefore, the Department had no basis to use the failure to report need based on employment hours as grounds to close the Petitioner's CDC for failure to verify this item.

Thus, as regards the Petitioner's CDC it is determined that the Department improperly closed Petitioner's CDC case based upon a failure to verify employment need based on work hours.

The Department also denied the Petitioner's ██████████ 2018 applications for FIP and FAP. FIP cash assistance was denied on ██████████ 2018 and FAP was denied on ██████████ 2018. The application for FIP cash assistance was denied for the reason that the groups countable earnings exceed the application income limit for this program, citing BEM 505, 515, 518 and 520. Exhibit C.

The Department denied the Petitioner's FAP application for the reason that verification of earned income payments, bank account checking was not returned. Exhibit C. As regards the Petitioner's claim that she did not receive the Verification Checklist, it is determined that it was sent to the correct address and no returned mail was received by the Department, thus it is presumed to have been received. The Petitioner testified that she lived in a duplex and that her manager landlord lived in the other unit. The Petitioner further testified that the Post Office did not have any undelivered mail for the

Petitioner. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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).

Given the fact that that no verification of income was verified it is unclear on what basis the FIP application was denied. As can be seen based upon the two cited denial reasons above, they are inconsistent, because FIP was denied based on Petitioner's income exceeding the income limit for the FIP cash assistance program, and the FAP application was denied for failure to return verification of earned income and a current bank account statement. If the Department had no income to determine FAP eligibility because proof of income was not returned, it is unclear what income, if any, the Department had available or relied upon to deny the FIP cash assistance on the basis of Petitioner's income exceeding the limit for that program.

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 CDC case for failure to verify need based on employment.

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 acted in accordance with Department policy when it denied the Petitioner's application for food assistance for failure to verify information including verification of income and bank account balance.

The Administrative Law Judge, based upon the 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 the Petitioner's application for FIP based upon countable earnings exceeding the application income limit for FIP.

DECISION AND ORDER

Accordingly, the Department's decision is:

AFFIRMED IN PART with respect to its denial of the Petitioner's FAP application for failure to verify information, and

REVERSED IN PART with respect to the CDC case closure based upon failure to verify employment hours demonstrating need during the CDC certification period, and

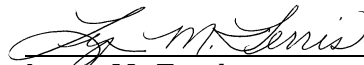
REVERSED IN PART with respect failure to meet its burden of proof with respect to its denial of Petitioner's application for FIP due to her income exceeding the FIP cash program income limit.

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. The Department shall reinstate the Petitioner's CDC case as of September 2, 2018, the date of closure.
2. The Department shall supplement the Petitioner for CDC benefits the Petitioner was otherwise eligible to receive, in accordance with Department policy.
3. The Department shall reregister and process the Petitioner's application for FIP cash assistance dated [REDACTED] 2018 and determine eligibility.
4. If Petitioner is determined eligible for FIP cash assistance the Department shall supplement the Petitioner for FIP benefits she was otherwise entitled to receive.

LMF



Lynn M. Ferris
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

Via Email:

MDHHS-Wayne-17-Hearings
BSC4 Hearing Decisions
L. Brewer-Walraven
D. Sweeney
M. Holden
B. Cabanaw
B. Sanborn
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]