



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 27, 2018
MAHS Docket No.: 18-012177
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearings Facilitator. Translation services were provided by [REDACTED], who certified that he was fluent in both English and Korean. During the hearing, a 9-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-9.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case based on Petitioner's alleged failure to verify assets?

Did the Department properly close Petitioner's Food Assistance Program (FAP) case based on Petitioner's alleged failure to verify assets?

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 recipient of MA and FAP benefits.
2. On September 4, 2018, the Department issued to Petitioner a Redetermination in order to gather information relevant to Petitioner's ongoing eligibility for MA and

FAP benefits. The completed Redetermination was due by October 4, 2018. Exhibit A, pp. 1-8.

3. On [REDACTED] 2018, Petitioner returned to the Department the completed Redetermination. Exhibit A, pp. 1-9.
4. On October 5, 2018, Petitioner submitted to the Department a document showing Petitioner's balances in three accounts at [REDACTED]. The document also showed that an account ending in [REDACTED] closed on April 16, 2018. Exhibit A, p. 9.
5. Effective November 1, 2018, Petitioner's MA and FAP cases were closed. According to the Department's testimony at the hearing, they were closed for failure to provide verifications of assets. However, no documentation was presented to show what was requested or why what Petitioner submitted was deemed insufficient.
6. On [REDACTED] 2018, Petitioner submitted to the Department a request for hearing objecting to the closure of her MA and FAP cases. On the request for hearing, Petitioner clearly indicated that she required assistance at the hearing in the form of a Korean translator.

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.

In this case, Petitioner's MA and FAP benefits cases were closed effective November 1, 2018. At the hearing, the Department presented an eight-page completed Redetermination form and a document showing Petitioner's assets in a number of [REDACTED]

██████████ accounts as support for its decision. The Department representative testified that Petitioner's MA and FAP cases were closed as a result of Petitioner's failure to verify her assets as required by the Department.

A client's assets are highly relevant for the determination of eligibility for both FAP and MA. BEM 400 (May 2018), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 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 (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. 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.

According to the Department witness' testimony, the Department closed Petitioner's MA and FAP cases because Petitioner failed to verify assets Petitioner held in ██████████ accounts. The Department, however, failed to produce any documentary evidence of a VCL being sent to Petitioner requesting the information related to Petitioner's assets. Thus, the record is devoid of any request for verification of that information. Instead, the Department witness testified that a VCL was sent out requesting information relevant to Petitioner's ongoing eligibility for MA and FAP benefits. The witness further testified that the Department then closed Petitioner's FAP and MA cases after Petitioner failed to provide the information requested by the deadline, even though she allegedly submitted some responsive documents.

By failing to provide the documents necessary to determine whether the Department followed Department policy, the Department has failed to meet its burden of proving that it followed policy in making the decisions it made.

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 cases for Petitioner's alleged failure to submit required verifications.

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. Reinstate Petitioner's MA and FAP cases, effective November 1, 2018;
2. Redetermine Petitioner's FAP eligibility, effective November 1, 2018, ongoing;
3. Redetermine Petitioner's MA eligibility, effective November 1, 2018, ongoing;
4. If Petitioner is eligible for any additional FAP benefits, issue supplements to Petitioner;
5. If Petitioner is eligible for MA coverage, provide that coverage in accordance with Department policy;
6. Issue any verifications to Petitioner that may still be needed and ensure that the requests are clear as to what is being requested; and
7. Notify Petitioner in writing of its decision with respect to eligibility for FAP and MA benefits.

JM/dh



John Markey
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

Jeanenne Broadnax
25637 Ecorse Rd.
Taylor, MI 48180

Wayne County (District 18), DHHS

EQAD via electronic mail

BSC4 via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]