



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: January 11, 2019
MAHS Docket No.: 18-012467
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 January 2, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Audrey Craig, Family Independence Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP) and Medical Assistance (MA) based on her daughter's noncompliance with the Office of Child Support (OCS)?

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 a recipient of FAP and MA benefits.
2. Petitioner's daughter was found to be in noncompliance with OCS. Department Exhibit 1, pg. 2.
3. On November 2, 2018, the Department Caseworker sent Petitioner a Verification Checklist, DHS-3503, that due by November 13, 2018, for Petitioner to provide written verification of her checking account. Department Exhibit 1, pg. 1.
4. On November 2, 2018, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that her FAP case was closed effective

November 1, 2018, due to noncompliance with OCS. Department Exhibit 1, pgs. 3-5.

5. On November 26, 2018, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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 was a recipient of FAP and MA. Her MA is open and there was no loss of benefits. According to Petitioner, her MA case was closed, but was subsequently opened. Her daughter has never been on her FAP case so OCS should not be an issue in this matter for FAP. However, if Petitioner's daughter who is noncompliance with OCS is receiving MA, then her case should be closed because of that noncompliance. The Department failed to submit the information about the MA portion of the hearing request. The Department Caseworker verified verbally that there was no loss of benefits for MA.

On November 2, 2018, the Department Caseworker sent Petitioner a Verification Checklist, DHS-3503, that was due by November 13, 2018, for Petitioner to provide written verification of her checking account. Department Exhibit 1, pg. 1. The Department did not receive Petitioner's checking account verification until November 26, 2018, according to the Department Caseworker. The verification of the checking account was not part of the hearing packet, so this Administrative Law Judge cannot verify when it was sent or when it was received by the Department. The FAP case should not have closed for noncompliance with OCS because the daughter in

noncompliance with OCS is not a member of the FAP case. If it closed because of the failure to provide verification of a checking account by November 13, 2018, the verification was received by the Department. The verification of the checking account was received by the Department by November 26, 2018, before the end of the month. If the verification was sent timely, but not uploaded timely in the Electronic Case File (ECF), then the Department needs to redetermine eligibility.

This Administrative Law Judge is concerned because the case closure was sent November 2, 2018, but the verifications were not due until November 13, 2018. In addition, a copy of the checking account verification received by the Department was not submitted in the hearing packet. The Department has not met their burden and has to redetermine eligibility for FAP retroactive to November 1, 2018.

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 case retroactive to November 1, 2018.

Accordingly, the Department's decision is **REVERSED** for FAP and **AFFIRMED** for MA.

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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to November 1, 2018.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/hb



Carmen G. Fahie
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

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne County (District 76), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

