



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 19, 2019
MAHS Docket No.: 19-000381
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 13, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Erica Adams, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective September 1, 2018?

Did the Department properly deny Petitioner's application for FAP benefits?

Did the Department properly deny Petitioner's Medical Assistance (MA) Program coverage?

FINDINGS OF FACT

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

1. In August 2018, Petitioner was undergoing the Redetermination process for her FAP benefits.
2. Effective September 1, 2018, Petitioner's FAP benefits case was closed; the Department did not issue a Notice of Case Action regarding the closure of Petitioner's FAP benefits.

3. On October 17, 2018, the Department received a copy of Petitioner's home owner's insurance premium installment pay schedule with was automatically drafted from an unknown bank account as well as a letter confirming closure of Petitioner's [REDACTED] account, effective December 27, 2017.
4. On December 5, 2018, the Department received Petitioner's FAP application listing no bank accounts.
5. On December 10, 2018, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of checking accounts, heat and non-heat electric expenses, and wages from [REDACTED] with all proofs due by December 20, 2018.
6. On December 17, 2018, an interview was completed during which Petitioner explained that she has no bank account but that her insurance premiums are paid from her mother's bank account, and Petitioner is not listed on that account; Petitioner was asked to provide proof of her mother's account to show that she was not an account holder.
7. On December 20, 2018, the Department received a DTE Energy Bill, check stubs for December 7th and December 21st, and a letter explaining that Petitioner's mother is listed on the DTE account instead of Petitioner, but that Petitioner is still responsible for the bill.
8. On December 27, 2018, the Department issued a Notice of Case Action to Petitioner informing her that her application for FAP benefits had been denied because the Department had not received proof of her earned income and her checking account.
9. On the same day, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was not eligible for Medical Assistance (MA) Program benefits, effective February 1, 2019, because she was not under 21, pregnant, over age 65, blind, disabled, or the caretaker of a minor child in her home.
10. Despite the denial of benefits based on the HCCDN, Petitioner's MA case was still pending for Group 2-Parent/Caretaker Relative (G2C) as of December 27, 2018, for February 2019 benefits.
11. On the same day, the Department issued a VCL requesting proof of the checking account by January 7, 2019.
12. On January 9, 2019, the Department received Petitioner's request for hearing disputing the closure of her FAP benefits, effective September 1, 2018; the denial of FAP benefits in December 2018; and the denial of her MA coverage in December 2018.

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).

Food Assistance Program (FAP)

The 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's FAP benefits were closed, effective September 1, 2018, and then her FAP application was denied in December 2018.

Based upon the evidence presented, the Department did not issue a Notice of Case Action for the September 1, 2018, closure. Policy provides that clients may request a hearing within 90 days of the Notice of Case Action. BAM 600 (August 2018), p. 6. Since the Department did not issue a Notice of Case Action, no 90-day period could be established during which Petitioner should have requested a hearing. In addition, hearing requests are granted when there is a termination of program benefits or a delay of any action beyond standards of promptness by the Department. BAM 600, p. 5. The Department is required to issue timely notice, or notice mailed at least 11 days before the intended negative action takes effect, for negative actions including case closures. BAM 220 (July 2018), p. 5. Since the Department failed to issue a Notice of Case Action regarding the closure of Petitioner's FAP benefits, effective September 1, 2018, the Department has not acted in accordance with Department policy.

Turning to the denial of Petitioner's application from December 2018, Petitioner's application was denied for failure to return proof of the bank statement from which her home insurance premiums were paid in addition to proof of her earned income. Policy provides that the Department usually requires verification of household circumstances at application. BAM 130 (April 2017), p. 1. In addition, the Department is required to give clients ten days to provide the requested verification. BAM 130, p. 7. Negative Action Notices are sent when a client indicates a refusal to provide a verification or the time period given has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Since assets and income are used in determining program eligibility, the Department properly requested proof of these items at application. BEM 400 (May 2018), p. 1; BEM 500 (July 2017), p. 13.

While the Department initially testified that Petitioner had not provided proof of income, later evidence suggested that Petitioner provided two paystubs on December 20, 2018,

for the pay period from November 19, 2018, through December 2, 2018, with a pay date of December 7, 2018, and the pay period from December 3, 2018, through December 16, 2018, with a pay date of December 21, 2018. The Department's position was that these paystubs were insufficient for purposes of determining eligibility because the paystubs did not address Petitioner's wages for the 30-day period prior to application. Policy provides that the Department is required to evaluate income using the income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (October 2017), p. 6. The 30-day period begins up to 30 days before the interview date or the date the information was requested. *Id.* The Department requested verification of Petitioner's income on December 10, 2018. Therefore, the Department's position is correct because the wages provided by Petitioner do not offer sufficient information regarding the full 30-day period prior to the request being. However, Petitioner's actions in supplying her paystubs for two pay periods which covered a total of 28 days and 22 days of the 30-day lookback period are a perfect example of a reasonable effort to comply with the Department's requests; and the Department should not have closed her case based upon the failure to verify earned income. Closures are only instituted when the time period has lapsed, and the client has not made a reasonable effort to comply. BAM 130, p. 7. Therefore, a denial based solely on a failure to provide 30 days of income was not in accordance with Department policy.

If the denial was based solely on the failure to verify 30 days of income was the only basis for the Department's decision, the analysis would end there. However, the Department also denied Petitioner's application for failure to verify a checking account. The Department had issued a VCL requesting proof of a checking account; and in the interview, it was clarified that the Department needed proof of the checking account from which Petitioner's home insurance premium was being deducted even if it belonged to Petitioner's mother, and Petitioner was not listed as an account holder.

Petitioner testified that she provided the account statement for her mother's account from which her insurance premiums were drawn at the same time that her paystubs and DTE bill were submitted to the Department. The Department's records reflect that several items were received that day, but not the bank statement. Petitioner did not provide any documentation to support her statement that the bank statement was submitted to the Department. Without some additional evidence from Petitioner, the evidence is her word against the Department's word and supporting documentation. Based upon the evidence presented, the Department acted in accordance with Department policy in closing Petitioner's case for failure to submit proof of the bank account from which her insurance premiums were drawn.

Medical Assistance (MA) Program

The 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 issued an HCCDN informing her that MA benefits had been denied for some programs, but she was not informed that her MA case was still pending for other programs. The HCCDN specifically stated that she was not eligible for MA benefits because she was “not under 21, pregnant, or a caretaker of a minor child in [her] home. [She was] not over 65 (aged), blind, or disabled.” All of these reasons for ineligibility are accurate except her status as a caretaker of a minor child. Despite this inaccuracy, Petitioner was still pending for MA under the G2C category which requires an individual to be a parent or caretaker relative of a dependent child for eligibility purposes. BEM 135 (October 2015), p. 1.

The MA Program offers coverage through many categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (April 2017), p. 1. Petitioner does not qualify for an SSI-related category as noted by the HCCDN. Medicaid eligibility also exists for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan (HMP). *Id.* HMP provides eligibility to those who are aged 19-64, do not qualify for and are not enrolled in Medicare or other Medicaid programs, are not pregnant at the time of application, are Michigan residents, meeting MA citizenship requirements, and have income at or below 133% of the Federal Poverty Level (FPL). BEM 137 (April 2018), p. 1. Since the Department was still determining eligibility for some programs including programs which considered Petitioner’s status as a parent/caretaker, and because the HCCDN was accurate that Petitioner did not meet any of the program requirements listed (other than the parent/caretaker requirement), the Department acted in accordance with Department policy. Ideally, it would have been better for the Department to issue one decision regarding Petitioner’s eligibility rather than multiple decisions, but the effect was still the same. Any decisions issued by the Department regarding Petitioner’s MA eligibility after Petitioner’s request for hearing are not addressed here as those decisions were not the basis of Petitioner’s request for hearing.

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 provided the initial assessment of Petitioner’s MA eligibility and continued to process her MA eligibility for other programs, the Department also acted in accordance with policy in denying Petitioner’s FAP application in December 2018, but did not act in accordance with Department policy when it closed Petitioner’s FAP case, effective September 1, 2018, without issuing a Notice of Case Action.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of some MA categories and continued processing of other MA categories as well as the denial of Petitioner's FAP application in December 2018, and **REVERSED IN PART** with respect to the closure of Petitioner's FAP benefits effective September 1, 2018.

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 and redetermine Petitioner's FAP benefits effective September 1, 2018;
2. If Petitioner is otherwise eligible, issue FAP supplements in accordance with Department policy; and,
3. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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

LaNecia Sigmon
MDHHS-Macomb-20-Hearings

Petitioner

[REDACTED]
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