



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: March 18, 2019
MAHS Docket No.: 19-000404
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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, an in-person hearing was held on March 13, 2019, from Southfield, Michigan. Petitioner was present with his brother, Devin Decator. The Department of Health and Human Services (Department) was represented by Christine Brown, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 submitted an application for FAP and Medical Assistance (MA) benefits on November 22, 2018 (Exhibit A).
2. On December 4, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting various proofs including employment/income verification (Exhibit E). The Department also sent a DHS-38 Verification of Employment.
3. On December 11, 2018, Petitioner returned the DHS-38 Verification of Employment (Exhibit B).
4. On December 20, 2018, the Department sent Petitioner a Notice of Case Action informing him that his application for FAP benefits was denied (Exhibit C).

5. On January 10, 2019, Petitioner submitted a request for hearing disputing the Department's actions regarding his MA and FAP benefit cases.

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).

MA

The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's MA program benefits. Shortly after commencement of the hearing, the Department testified that Petitioner was approved for full-coverage MA benefits effective November 1, 2018, ongoing. As such, Petitioner testified he no longer desired to proceed with the hearing request related to his MA benefit case. The Request for Hearing related to the MA benefit case was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal on the record, the Request for Hearing related to the MA program is **DISMISSED**.

FAP

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.

In this case, Petitioner submitted an application for FAP benefits on November 22, 2018. On December 4, 2018, the Department sent Petitioner a VCL requesting various verifications, including proof of income/employment. Proofs were due on December 14, 2018.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 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 (April 2017), 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.

The Department testified that Petitioner did not properly verify his income/employment prior to the VCL due date of December 14, 2018. As a result, the Department denied Petitioner's application for FAP benefits in the notice issued December 20, 2018. The Department testified that Petitioner did return the DHS-38 Verification of Employment on December 11, 2018, prior to the VCL due date. The individual that testified on behalf of the Department was unsure as to why the Verification of Employment was insufficient to verify Petitioner's employment/income but surmised it was because there was only payment information for one pay period listed on the document (Exhibit B, p. 2).

Petitioner testified that he had the employer complete the DHS-38 Verification of Employment. Petitioner stated that there was only payment information listed for one pay period because he only received one paycheck in November 2018. Petitioner testified that he was off work for a period of two weeks, resulting in only one payment being issued in November 2018.

According to the VCL, the DHS-38 Verification of Employment was a sufficient way to verify Petitioner's wages. The DHS-38 only requested payment information for the period of November 1, 2018 through November 30, 2018. Petitioner provided the exact information that was requested by the Department. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

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 did not act in accordance with Department policy when it denied Petitioner's application for FAP benefits.

Accordingly, the Department's decision is **REVERSED** related to the FAP benefit case.

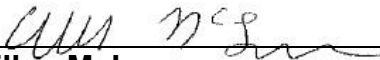
Petitioner's request for hearing related to his MA benefit case is **DISMISSED**.

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 reprocess Petitioner's November 22, 2018 application for FAP benefits;
2. If Petitioner is eligible for FAP benefits, issue supplements he is entitled to receive as of November 22, 2018; and
3. Notify Petitioner of its decision in writing.

EM/jaf



Ellen McLemore
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

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

BSC4
D Smith
EQAD
M Holden
D Sweeney