



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-002500
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 April 11, 2019, from Detroit, Michigan. Petitioner appeared and was represented by her Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's [REDACTED], 2019, application for Food Assistance Program (FAP) benefits?

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective January 1, 2019, for allegedly failing to return a completed Redetermination?

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 had an open MA benefits case with a certification period ending December 31, 2018.
2. On [REDACTED], 2018, Petitioner submitted to the Department an application for FAP benefits.

3. On October 25, 2018, the Department issued to Petitioner a Verification Checklist (VCL) requesting information related to Petitioner's eligibility for MA and FAP benefits. Petitioner was required to return the proofs by November 5, 2018. Petitioner submitted documents to the Department in response to the October 25, 2018, VCL. However, the Department did not have record of Petitioner's submissions.
4. On or about November 5, 2018, the Department issued to Petitioner a Redetermination form in order to gather relevant information regarding Petitioner's ongoing eligibility for MA benefits. The completed form was required to be returned to the Department by sometime in December 2018.
5. On November 18, 2018, Petitioner submitted the completed Redetermination form to the Department. Department records do not reflect the fact that Petitioner submitted the completed Redetermination.
6. On November 20, 2018, Petitioner emailed the completed Redetermination form to her worker. In addition to the completed Redetermination form, Petitioner submitted numerous documents verifying the information provided in the Redetermination. Department records do not reflect the fact that Petitioner submitted the completed Redetermination or accompanying verifications.
7. At some point, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits case was closing, effective January 1, 2019, as a result of Petitioner's alleged failure to return the completed Redetermination.
8. On February 25, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP application was denied, effective December 1, 2018, for allegedly failing to return verifications related to Petitioner's income.
9. On ██████████ 2019, Petitioner submitted to the Department a request for hearing objecting to the closure of her MA benefits case and denial of her FAP application.

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 an ongoing recipient of MA coverage from the Department with a certification period ending December 31, 2018. On [REDACTED] 2018, Petitioner submitted to the Department an application for FAP benefits. On October 25, 2018, the Department issued to Petitioner a VCL. The required proofs were due by November 5, 2018. Petitioner testified that she responded to the Department's request in a timely manner. On November 5, 2018, the Department issued to Petitioner a Redetermination form in order to gather relevant information regarding Petitioner's ongoing eligibility for MA benefits. The form was required to be returned by the first week of December 2018.

On multiple occasions, Petitioner credibly testified that she submitted the completed Redetermination form along with the required proofs. However, the Department did not have record of any of the submissions. When pressed on the issue, Petitioner's daughter showed Ms. Jones an email from November 20, 2018, wherein the Department was provided with the completed Redetermination and accompanying proofs. Ms. Jones conceded that the submission should have been processed and logged into the Department's systems. Petitioner has shown both that she diligently responds to Department requests for information and that the Department has, for whatever reason, consistently failed to process those submissions in a timely manner.

Effective January 1, 2019, Petitioner's MA benefits case closed as a result of Petitioner's alleged failure to return the completed Redetermination. Effective December 1, 2018, Petitioner's FAP application was denied for allegedly failing to return required verifications.

FAP DENIAL

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. 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.

Petitioner testified during the hearing that she in fact did respond to the Department's VCL in a timely manner. While the Department records do not reflect this fact, Petitioner has shown that the absence of the record is not indicative of a failure to provide the documents. Petitioner's case was riddled with errors, and Petitioner proved that her diligent and timely responses were never logged into the Department's system. As a result, Petitioner's testimony is given much greater weight and credibility than the Department's records or absence thereof. Accordingly, it is found that Petitioner timely and reasonably replied to the Department's VCL.

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 FAP benefits application, effective December 1, 2018. As a result, the Department's denial of Petitioner's FAP application is reversed.

MA CLOSURE, EFFECTIVE JANUARY 1, 2019

Periodically, the Department must redetermine or renew a client's eligibility for Department-issued benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 4. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, benefits stop at the end of the benefit period. BAM 210, p. 4. To initiate the redetermination process, the Department issues to clients a redetermination form; that form must be completed and returned to the Department in a timely manner. BAM 210, p. 1.

In this case, the Department served Petitioner with the redetermination form in order to initiate the redetermination process, and Petitioner timely returned the completed form to the Department. The Department, however, did not process Petitioner's submission. In this case, Petitioner's case was closed because she allegedly failed to return to the Department a response to a document the Department in fact timely received. The Department did not follow Department policy when it closed Petitioner's MA benefits case, effective January 1, 2019, for failing to return the Redetermination that she in fact returned in a timely manner.

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 MA benefits case, effective January 1, 2019.

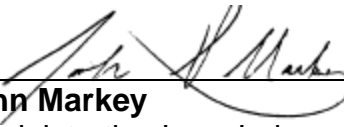
DECISION AND ORDER

Accordingly, the Department's decisions are **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. Reprocess Petitioner's [REDACTED], 2018, application for FAP benefits;
2. Process Petitioner's submissions and determine Petitioner's eligibility for FAP benefits, taking into consideration Petitioner's expenses, including but not limited to housing, medical, and utilities;
3. If any eligibility related factors remain unclear, inconsistent, or contradictory, follow Department policy in resolving the discrepancies by issuing verification checklists that clearly inform Petitioner of what is requested from her and properly process the submissions Petitioner provides in response;
4. If Petitioner is eligible for additional FAP benefits, promptly issue to Petitioner a supplement;
5. Reinstate Petitioner's MA benefits case, effective January 1, 2019;
6. Process Petitioner's timely submitted Redetermination and determine Petitioner's ongoing eligibility for MA benefits;
7. If any eligibility related factors remain unclear, inconsistent, or contradictory, follow Department policy in resolving the discrepancies by issuing verification checklists that clearly inform Petitioner of what is required from her and properly process the submissions Petitioner provides in response; and
8. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
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

Via Email:

MDHHS-Wayne-18-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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