

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-018691
Issue No.: 2000; 3003
Agency Case No.: [REDACTED]
Hearing Date: December 2, 2015
County: WAYNE-DISTRICT 31

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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; 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 2, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

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 did not receive FAP benefits from or around [REDACTED]
2. On [REDACTED] Petitioner was scheduled to conduct a FAP redetermination telephone interview; however, an interview was not conducted.
3. On [REDACTED] the Department mailed Petitioner a Notice of Missed Appointment (DHS-0254). See Exhibit A, p. 6.
4. On [REDACTED], Petitioner submitted her completed redetermination.

5. On [REDACTED], the Department sent Petitioner a Quick Note notifying her to contact the worker in order to conduct a redetermination telephone interview. See Exhibit A, p. 8.
6. On [REDACTED], the Department also sent Petitioner an Appointment Notice notifying her of a new redetermination telephone interview scheduled on [REDACTED]. See Exhibit A, p. 9.
7. On [REDACTED], Petitioner failed to conduct the telephone interview.
8. On [REDACTED], the Department mailed Petitioner a Notice of Missed Appointment (DHS-0254). See Exhibit A, p. 7.
9. Effective [REDACTED], Petitioner's FAP benefits closed due to her failure to complete the redetermination telephone interview.
10. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

Preliminary matter

On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her and her two group

members' Medical Assistance (MA) benefits would close effective [REDACTED], ongoing. See Exhibit B, pp. 7-10. As such, on [REDACTED], Petitioner also requested a hearing to dispute the MA closure. See Exhibit A, pp. 2-3.

Shortly after commencement of the hearing, it was discovered that Petitioner had no lapse in MA coverage. It appeared that the Department conducted subsequent actions in which it reinstated her benefits. Nevertheless, the Department presented Petitioner's and her group members' Medicaid Eligibility forms that showed all three had no lapse in MA coverage. See Exhibit B, pp. 1-6.

Based on the foregoing information and evidence, Petitioner's MA issue is now moot because Petitioner did not have any lapse of coverage. See Exhibit B, pp. 1-8. As such, Petitioner's MA hearing request is **DISMISSED**. See BAM 600 (April 2015 and October 2015), pp. 1-6.

FAP redetermination

A complete redetermination is required at least every 12 months. BAM 210 (July 2015 and October 2015), p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If the client does not begin the redetermination process, the Department allows the benefit period to expire. BAM 210, p. 2.

Moreover, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3. For FAP telephone interviews, the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 4. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 4. The Department conducts a telephone interview at redetermination before determining ongoing eligibility. BAM 210, p. 4 and also policy relating to in-person interviews. To conduct the interview, the Department obtains a complete redetermination/review packet from the client. BAM 210, p. 12 (see additional steps the Department completes when conducting the interview).

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. When a complete packet is received, the Department records the receipt in its system as soon as administratively possible. BAM 210, p. 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 11. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11.

At the hearing, the Department testified that she contacted the Petitioner several times in attempt to conduct the telephone interview, but to no avail. Moreover, the Department testified that it sent Petitioner four notices in an effort to reach the client, but again, to no avail. The Department testified that all of the Petitioner's calls were returned within 24 hours of her calling as well.

In response, Petitioner testified that she did not have a telephone number, thus, she left a voicemail for the Department worker present for the hearing to notify the worker to contact her via her neighbor's telephone number for the first telephone interview on or around [REDACTED]. Petitioner testified that she waited for the Department to call, but received no response. Petitioner indicated that her neighbor informed her multiple times that the worker left a voicemail stating the worker would be calling Petitioner back at a specific date and time, but she received no call. In summary, Petitioner argued that she attempted to contact/left voicemails for the Department worker multiple times, but received no response. Petitioner further argued that she waited for the worker to call back multiple times as instructed by the worker, but received no calls. Petitioner testified that she finally spoke to the Department worker after her hearing request.

It should be noted that the Department would most likely not have contacted the Petitioner for her scheduled interview on [REDACTED] because the Department did not receive the redetermination until [REDACTED]. See BAM 210, p. 12 (the Department conducts an interview when it obtains a complete redetermination/review packet from the client).

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is after the timely filing date.

BAM 210, p. 18.

Any of these reasons can cause a delay in processing the redetermination. BAM 210, p. 18. When the group is at fault for the delay, the redetermination must be completed within 30 days of the compliance date. BAM 210, p. 18. If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days of the compliance date. Benefits are not prorated. BAM 210, p. 18.

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 18. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client completed the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered.

BAM 210, pp. 18-19.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FAP benefits effective [REDACTED], in accordance with Department policy. See BAM 210, pp. 18-19. The undersigned finds that the Department has established by a preponderance of evidence that Petitioner failed to participate in her scheduled interview before the certification period had ended ([REDACTED]). Petitioner argues that she waited for the phone calls at her neighbor's house and also attempted to contact her worker, but to no avail. However, the Department presented sufficient evidence and testimony that Petitioner failed to participate in her scheduled interview. In fact, Petitioner failed to present her neighbor as witness to support her testimony. The evidence established that the Department sent two notices of missed interviews, a quick note, and a new appointment notice in attempt to have Petitioner participate in her scheduled interview. See Exhibit A, pp. 6-9. But, Petitioner failed to reschedule and/or participate in the interview. Policy states that if a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 18. In this case, Petitioner did file her redetermination before the end of the benefit period, but she failed to conduct her required telephone interview; therefore, the Department properly denied Petitioner's case at the end of the benefit period. See BAM 210, p. 18.

It should be noted that the Department indicated that Petitioner reapplied for FAP benefits on [REDACTED] and completed her telephone interview on [REDACTED]. See Exhibit A, pp. 1 and 4. Per Department policy, Petitioner completed the required action (telephone interview) within 30 days after the end of the benefit period and the Department should have issued benefits the date she filed the application. See BAM 210, pp. 18-19. The undersigned is not addressing this issue as it occurred subsequent to the hearing request. See BAM 600, pp. 1-6.

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 acted in

accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED].

Accordingly, the Department's FAP decision is **AFFIRMED**.

IT IS ALSO ORDERED that Petitioner's MA hearing request (dated [REDACTED]) is **DISMISSED**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/3/2015**

Date Mailed: **12/3/2015**

EF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

