

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

IN THE MATTER OF:



MAHS Reg. No.: 15-017282
Issue No.: 2001, 3000
Agency Case No.: [REDACTED]
Hearing Date: November 25, 2015
County: Wayne (19) Inkster

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 November 25, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's application for Medical Assistance (MA)?

Did Petitioner file an application for the Food Assistance Program (FAP), which was denied by the Department?

FINDINGS OF FACT

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

1. The Department has no record in its electronic file system that the Petitioner filed a FAP application at any time during July 2015. The last time the Petitioner was denied food assistance was in 2014. The Department's electronic file system received an MA application dated July 23, 2015. Exhibit A.
2. The Department approved the Petitioner for the Healthy Michigan Plan (HMP) effective July 1, 2015, ongoing. Exhibit B. The Petitioner was removed from Medicare by Social Security effective September 30, 2015. As of October, the Department system found that she was a Medicare recipient and eligible as a Fee-for-Service MA recipient.
3. The Petitioner requested a timely hearing on September 11, 2015.

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, the Department had no record of ever receiving an application for FAP from the Petitioner at or around the time she applied for MA in July 23, 2015. Although the Petitioner said she filed an FAP application around the same time she filed her MA application, no such application was found. The application filed on July 23, 2015, by the Petitioner requested assistance for MA only. The Petitioner had no other proof that she filed an application; thus, based upon the evidence presented at the hearing, it is determined that there was nothing required to be processed by the Department as there is no record of any such FAP application. The Department having nothing to take action on and having taken no action leaves the undersigned with nothing further to decide. The Petitioner may apply for FAP again at any time.

The Department issued a Health Care Coverage Determination Notice on July 24, 2015, finding the Petitioner and her spouse eligible for full coverage HMP ongoing. Exhibit A. However, the Petitioner never received a mihealth card. At the hearing, the Petitioner testified that she was recently told by the MA hotline that she is now eligible for a plan called Fee-for-Service based upon her receiving Medicare. The Petitioner credibly testified that she was removed from Medicare by the Social Security Administration on September 30, 2015. The reason for the change to Fee-for-Service could not be explained by the Department. In addition, any change in Petitioner's MA coverage would have to be based upon a Notice of Case Action (Health Care Coverage Determination Notice) advising the Petitioner that her MA coverage had changed. The Department did not produce such a notice. Therefore, based upon the evidence presented at the hearing, the Department must reprocess the July 23, 2015, application for MA and determine the correct MA eligibility and provide the Petitioner notice as required by Department policy. Whether the MA program change required adequate or

timely notice, any change to the Petitioner's MA eligibility entitles the Petitioner to receive notice of the change.

All Programs

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220

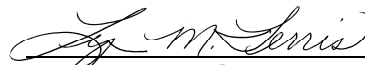
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it changed the Petitioner's MA eligibility and coverage without providing notice. The Petitioner's request for hearing regarding her FAP benefits is dismissed as no application was received by the Department and thus there is no issue for the undersigned to decide.

DECISION AND ORDER

Accordingly, the Department's decision is **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. The Department is to reprocess the July 23, 2015, application and determine ongoing coverage and provide Petitioner a mihealth card if she is found otherwise eligible for HMP.
2. The Department shall provide the Petitioner with written notice of its determination of Petitioner's ongoing eligibility for MA as required by Department policy.
3. The Petitioner's request for hearing regarding denial of her FAP application is hereby **DISMISSED**.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/30/2015**

LMF/jaf

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:

