

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

IN THE MATTER OF:

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████████████████████

MAHS Reg. No.: 15-020137
Issue No.: 1000;2003
Agency Case No.: ██████████
Hearing Date: January 14, 2016
County: Wayne-District 49

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 January 14, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's Family Independence Program (FIP) benefits and close her Medical Assistance (MA) case?

FINDINGS OF FACT

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

1. On June 16, 2014, the Department sent Petitioner a Redetermination that was to be completed and returned to the Department on July 1, 2014. (Exhibit B)
2. On December 6, 2014, the Department sent Petitioner a Notice of Case Action informing her that her cash assistance benefits under the FIP would be closed effective January 1, 2015. (Exhibit A)
3. Petitioner was an ongoing recipient of MA benefits.
4. On October 6, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective November 1, 2015, her MA case would be closed on the basis that she failed to verify or allow the Department to verify information necessary to determine eligibility for the program. (Exhibit C)

5. On October 22, 2015, Petitioner requested a hearing disputing the Department's actions with respect to her FIP and MA benefits.

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, Petitioner was previously a recipient of FIP benefits. On December 6, 2014, the Department sent Petitioner a Notice of Case Action informing her that her cash assistance benefits under the FIP would be closed effective January 1, 2015. (Exhibit A). The Department's Notice of Case Action to Petitioner was dated December 6, 2014; however, Petitioner did not file a request for hearing to contest the Department's action until October 22, 2015. The Department testified and Petitioner confirmed that she did not reapply for cash assistance benefits under the FIP or State Disability Assistance (SDA) program since her termination of benefits in January 2015 and that no other denial notices were issued subsequent to the one dated December 6, 2014. Petitioner also did not rebut the presumption that she received the Notice of Case Action. Therefore, Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

MA

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.

The Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (July 2015), p. 1. Unless otherwise specified by Department policy, a client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210, p. 1. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information for MA redeterminations. BAM 210, p.14. For MA 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. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p.14.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2015), 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. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-8. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, p. 7-8. Extensions may be granted when the client or authorized representative make a request, when the need for the extension and the reasonable efforts taken to obtain the verifications are documented, and every effort by the Department was made to assist the client in obtaining the verifications. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p.7-8. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

In the present case, Petitioner was an ongoing recipient of MA benefits. The Department testified that Petitioner did not return the Redetermination sent to her on June 16, 2014. (Exhibit B). The Department stated that because Petitioner failed to return the June 2014 Redetermination, it sent her a Health Care Coverage Determination Notice on October 6, 2015, informing her that her MA case would be

closed effective November 1, 2015, on the basis that she failed to verify or allow the Department to verify information necessary to determine eligibility for the MA program. (Exhibit C). The Department presented a Redetermination from the year 2014 and failed to present a Redetermination for Petitioner's current certification period. The Department did not establish that it sent Petitioner a Redetermination in 2015 that she failed to complete and did not establish that it sent Petitioner a current VCL or similar request for verification that Petitioner failed to return. Petitioner maintained that she did not receive a 2015 Redetermination from the Department or any additional request for verification.

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 based on the testimony and documentation presented at the hearing, the Department did not act in accordance with Department policy when it closed Petitioner's MA case effective November 1, 2015.

DECISION AND ORDER

Accordingly, the hearing request with respect to FIP is **DISMISSED** and the Department's MA 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. Reinstate Petitioner's MA case effective November 1, 2015;
2. Provide Petitioner with MA coverage from November 1, 2015, ongoing; and
3. Notify Petitioner in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/3/2016**

Date Mailed: **2/3/2016**

ZB / tlf

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: