

**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.: 15-022529
Issue No.: 2000 3003
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 20, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's son, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] [REDACTED] hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated 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 was an ongoing FAP benefit recipient.
2. Petitioner's FAP eligibility period was scheduled to expire at the end of October 2015.
3. On [REDACTED], MDHHS mailed Petitioner a redetermination form listing a return due date of [REDACTED].
4. On [REDACTED], Petitioner submitted to MDHHS an Assistance Application.
5. MDHHS allowed Petitioner's FAP eligibility to expire at the end of October 2015.

6. On [REDACTED], Petitioner requested a hearing to dispute the expiration of her FAP eligibility and an unspecified Medical Assistance (MA) dispute.
7. On [REDACTED], Petitioner withdrew her MA dispute.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute an unspecified action concerning MA eligibility. Petitioner testified that she had no ongoing MA dispute and wished to withdraw her hearing request concerning this issue. MDHHS did not object to the partial withdrawal of Petitioner's hearing request. The MA aspect of Petitioner's hearing request will be dismissed.

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of her FAP eligibility, effective November 2015. MDHHS testimony indicated a written notice of termination was not mailed. MDHHS testimony provided various reasons for the benefit termination.

MDHHS testimony indicated the termination was caused, in part, by Petitioner's failure to verify employment income for her son. MDHHS testimony also indicated that the specific failure was Petitioner's failure to return a New Hire Report. This stated basis for termination was not taken seriously. MDHHS testimony indicated the New Hire Report was mailed to Petitioner in November 2015- after Petitioner's FAP eligibility had ended. MDHHS cannot reasonably claim that an alleged action occurring after the benefit closure caused the benefit closure.

MDHHS also stated the FAP termination was supported by Petitioner's failure to return a Redetermination mailed to Petitioner on [REDACTED] Petitioner did not dispute that she failed to return the Redetermination.

The Michigan Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2015), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete redetermination is required at least every 12 months. *Id.* Bridges sets the redetermination date according to benefit periods... *Id.*

[For FAP eligibility,] benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.*, p. 2. The redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.* If the client does not begin the redetermination process, [MDHHS is to] allow the benefit period to expire. *Id.*

Though Petitioner did not return a Redetermination, it was not disputed Petitioner submitted an Assistance Application to MDHHS on September 1, 2015. The Assistance Application is an acceptable submission to begin the redetermination process.

MDHHS contended that even if an application is an acceptable redetermination document, Petitioner's application was submitted after the due date to return the Redetermination. The due date to return the Redetermination was not disputed to be August 4, 2015.

Petitioner returned acceptable redetermination documents two full months before the expiration of her FAP eligibility period. An argument that Petitioner's submission was tardy appears wholly disingenuous considering MDHHS had ample time to process Petitioner's application. More importantly, no known policy allows MDHHS to ignore redetermination documents submitted after the due date. The argument that Petitioner's FAP eligibility properly ended because Petitioner's application was submitted after the redetermination due date is unpersuasive.

MDHHS testimony also alleged Petitioner's application failed to report her son's earned income from a temporary agency. Even if MDHHS's allegation was accurate, the failure to report income would not justify disregarding the application as a valid redetermination form. As it happened, the MDHHS allegation was unsubstantiated.

The MDHHS summary of the explanation for the actions taken conceded Petitioner's son did not begin work until October 2015 (Petitioner's son's testimony indicated he had a one week assignment in September 2015). Petitioner could not have reported her son's employment income in an application submitted her son began working. Thus, MDHHS cannot legitimately claim that Petitioner's application failed to report income.

Based on the presented evidence, it is found that Petitioner timely submitted acceptable redetermination documentation. Accordingly, the failure of MDHHS to process Petitioner's redetermination was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning MA benefits. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's FAP eligibility, effective November 2015, subject to the following findings:
 - a. Petitioner's application submission on [REDACTED], should have been processed as Petitioner's redetermination documentation;
 - b. Petitioner's alleged failure to verify her son's employment income was not a basis for the failure by MDHHS to process Petitioner's FAP redetermination;
 - c. Petitioner timely submitted redetermination documents for a FAP benefit redetermination beginning November 2015; and
- (2) initiate a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/26/2016**

Date Mailed: **1/26/2016**

CG / 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:

