

**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.: 15-022815
Issue No.: 2003, 3003
Agency Case No.: [REDACTED]
Hearing Date: January 25, 2016
County: Wayne (55)

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 25, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility following Petitioner's failure to submit income verification.

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 and MA benefit recipient.
2. Petitioner's MA and FAP eligibility were scheduled to expire at the end of July 2015.
3. As of July 2015, Petitioner had chore service income.
4. On an unspecified date before [REDACTED], Petitioner submitted various redetermination documents, but not proof of chore service income.

5. MDHHS did not mail a Verification Checklist (VCL) in response to Petitioner's failure to submit chore service income verification.
6. On an unspecified date, MDHHS terminated Petitioner FAP and MA eligibility, effective August 2015.
7. On [REDACTED], Petitioner requested a hearing to dispute FAP and MA eligibility.

CONCLUSIONS OF LAW

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).

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 to dispute a termination of FAP and MA benefits. Petitioner's initial testimony indicated the FAP closure began July 2015 and the MA closure began August 2015. Later Petitioner testimony conceded both closures began in August 2015.

One procedural issue should be noted. Petitioner waited several months after the benefit terminations to request a hearing. She might have been outside of her timeframe to request a hearing. The timeliness of a hearing request is based upon the date written notice was issued by MDHHS. MDHHS provided no dates of written notice. It cannot be determined if Petitioner was untimely in requesting a hearing without knowledge of the date that written notice of benefit termination was sent. Thus, Petitioner's hearing request will be presumed to have been timely submitted and the analysis will proceed to determine if the closures were proper.

The absence of written notices also prevents verifying the reason for benefit termination. MDHHS testimony credibly indicated the basis for FAP and MA closures was Petitioner's failure to submit income verification during the redetermination process.

For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BEM 210 (July 2015), p. 6. The packet is sent to the mailing address in Bridges. *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.* [For FAP benefits,] the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. *Id.*, p. 15.

[For MA benefits,] verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due. *Id.*, p. 14. Bridges [the MDHHS database] 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. *Id.* If the tenth day falls on a weekend or holiday, the verification would not be due until the next business day. *Id.*

Petitioner testified she believed that she timely submitted chore services income verification. Petitioner's basis for her belief was that MDHHS staff told her after her benefits closed that she submitted all necessary documentation and that her benefit eligibility would be reinstated. During the hearing, MDHHS credibly testified that an examination of Petitioner's previous documentation revealed Petitioner submitted chore service income verification in November 2015- long after Petitioner's FAP and MA eligibility ended. For purposes of this decision, it will be found that Petitioner did not submit verification of chore service income before the end of her FAP or MA benefit period.

MDHHS testimony conceded that a VCL was not mailed to Petitioner. MDHHS contended that a VCL was not required because the Redetermination form (Exhibit 1, pp. 1-5) informs clients that verifications are required. The MDHHS contention was not persuasive because MDHHS requirements are set by policy, not by what is written on redetermination forms.

The FAP policy for redetermination clearly requires MDHHS to mail a VCL when verifications are lacking. The failure by MDHHS to mail a VCL is a reversible procedural failure. It is found that MDHHS failed to mail Petitioner a VCL in processing Petitioner's FAP redetermination.

MA redetermination policy is less clear. Policy states clients are allowed 10 “full calendar days from the date the verification is requested...” Though a VCL is not specifically referenced, a verification request is indicated. It is doubtful that MDHHS intended the Redetermination form to serve as a verification request because MDHHS policy would have likely stated the mailing date of the Redetermination as the date that the 10 calendar days begins to run. The more reasonable interpretation is that MDHHS must use a VCL to request required verifications that were not submitted with redetermination documents. It was not disputed that MDHHS did not use a VCL to request chore service income verification from Petitioner. It is found that MDHHS improperly terminated Petitioner’s MA eligibility.

It was not disputed that Petitioner submitted proof of her chore service income to MDHHS in November 2015. Thus, there is no need for MDHHS to re-request the information from Petitioner. This considerations is incorporated within the below order.

DECISION AND ORDER

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

- (1) process Petitioner’s redetermination for FAP and MA eligibility, effective August 2015, subject to the following findings:
 - a. the terminations were improper based on MDHHS’ failure to use a VCL to request proof of Petitioner’s chore service income; and
 - b. MDHHS has current proof of Petitioner’s chore service income; and
- (2) supplement Petitioner for 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: **1/25/2016**

Date Mailed: **1/25/2016**

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:

