



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 9, 2016
MAHS Docket No.: 15-027073
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, an in-person hearing was held on August 25, 2016, from Warren, Michigan. Petitioner appeared and was represented by [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUES

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) 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 FIP recipient.
2. Petitioner's FIP benefit period extended through the end of June 2015.
3. MDHHS failed to mail Petitioner a Redetermination concerning FIP benefits.
4. On [REDACTED], MDHHS terminated Petitioner's FIP eligibility, effective July 2015, due to Petitioner's alleged failure to return redetermination documents.

5. On [REDACTED], Petitioner requested a hearing to dispute the termination of FIP eligibility; Petitioner also disputed terminations of Food Assistance Program (FAP) and Medical Assistance (MA) eligibility.
6. On [REDACTED], Petitioner submitted a Redetermination to MDHHS.
7. Petitioner no longer has a dispute concerning MA or FAP 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, in part, to dispute FAP and MA eligibility from 2015. Petitioner testified she has no current dispute concerning FAP and MA benefits. Petitioner's testimony equated to a withdrawal of her hearing request. Petitioner's hearing request will be dismissed concerning her disputes of FAP and MA benefits.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. 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 a termination of FIP eligibility. MDHHS did not present a Notice of Case Action verifying the reasons for denial. MDHHS testimony credibly indicated written notice was sent to Petitioner on [REDACTED]. MDHHS credibly testified the reason for denial was Petitioner's failure to submit redetermination documents.

The Michigan Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 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 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. *Id.*, p. 6. The packet is sent to the mailing address in Bridges. *Id.* Redetermination forms... include a Redetermination DHHS-1010. *Id.* Benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 2.

MDHHS testimony credibly indicated a Redetermination was mailed to Petitioner on [REDACTED]. A copy of the Redetermination was resent to Petitioner on [REDACTED]. It was not disputed Petitioner did not complete a redetermination until [REDACTED]. Petitioner's FIP benefit period extended through June 2015. This evidence supported finding that MDHHS properly terminated Petitioner's FIP eligibility because of Petitioner's failure to timely submit a Redetermination.

Consideration was given to finding that MDHHS improperly scheduled Petitioner's FIP benefit redetermination earlier than allowed. MDHHS policy gives MDHHS specialists wide discretion to authorize early FIP redeterminations (see *Id.*, p. 7-8). Thus, it is not found to be problematic that MDHHS may have scheduled a FIP benefit redetermination a month early to coincide the redetermination with Petitioner's other active programs.

On the first page of a Redetermination is a statement of the programs being redetermined. The Redeterminations mailed to Petitioner specifically listed FAP and MA benefits as being redetermined; no mention was made concerning FIP benefits. The analysis will proceed to determine if MDHHS was required to send Petitioner a Redetermination specifically for FIP benefits.

The Redetermination form required for FIP benefits is not known to be any different than the form required for FAP or MA benefits other than the statement of the programs being redetermined. Also, MDHHS policy does not appear to require a statement of the programs being redetermined on the face of the Redetermination. These considerations support finding that listing programs being redetermined on the Redetermination is unimportant.

Generally, all MDHHS forms inform clients of the form's purpose. A Redetermination failing to list a program that results in closure of the program if the Redetermination is not returned fails to provide clients with notice of the form's significance; this is problematic. A client should not expect a program to close due to a failure to return a Redetermination without first receiving a Redetermination listing the program as due for benefit redetermination.

It is found MDHHS must mail a Redetermination listing programs being redetermined. As it was not disputed that MDHHS failed to mail a Redetermination listing FIP benefits, it is found MDHHS improperly terminated Petitioner's FIP eligibility.

It should also be noted that Petitioner appears to be excused for her failure to timely return a Redetermination for a second reason. A previous administrative hearing decision (which was not admitted) found MDHHS improperly failed to mail Petitioner a Redetermination after Petitioner reporting losing a Redetermination dated [REDACTED], [REDACTED] and requested a new form. A Redetermination mailed to Petitioner on [REDACTED] may have been sent in response to Petitioner's request, however, it was mailed long after Petitioner's request and shortly before Petitioner's FIP eligibility was scheduled to close. Though this consideration was discussed during the hearing, this decision ultimately rests on the MDHHS failure to mail Petitioner a proper Redetermination form.

The below order will not require MDHHS to mail Petitioner a Redetermination; nor will Petitioner be required to complete a Redetermination. It was not disputed Petitioner submitted a Redetermination to MDHHS on [REDACTED]. MDHHS will be expected to redetermine Petitioner's FIP eligibility based on the already submitted Redetermination.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner no longer disputes terminations of FAP eligibility, effective June 2015, and MA eligibility, effective July 2015. 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 FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility, effective July 2015, subject to the finding MDHHS failed to mail Petitioner proper notice of FIP benefit redetermination; and
- (2) Redetermine Petitioner's FIP eligibility, effective July 2015, based on Petitioner's Redetermination submitted to MDHHS on [REDACTED].

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

CG/hw



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

DHHS

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]