

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022820
Issue No.: 1003 2003 3000
Agency Case No.: [REDACTED]
Hearing Date: January 25, 2016
County: Wayne (17)

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], hearing facilitator.

ISSUES

The first issue is whether MDHHS threatened to terminate Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) and Family Independence Program (FIP) eligibility due to Petitioner's failure to return redetermination documents.

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, FIP and MA benefit recipient.
2. Petitioner's FIP and MA eligibility were scheduled to expire at the end of November 2015.
3. On [REDACTED], MDHHS mailed a Redetermination (Exhibit 1, pp. 3-8) to Petitioner.

4. MDHHS did not receive Petitioner's Redetermination before the end of November 2015.
5. On November 30, 2015, Petitioner requested a hearing to dispute the termination of her FAP, FIP, and MA eligibility.
6. Petitioner did not experience any threat to the end of 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).

Petitioner requested a hearing, in part, to dispute a FAP benefit termination. It was not established that Petitioner's FAP eligibility was ever in jeopardy.

Petitioner testified her FAP eligibility ended along with her MA and FIP eligibility. Petitioner testified her belief was based on the failure of her FAP benefits to "load" on the 1st-3rd of November 2015. Petitioner testified that "loading" means her benefits are ready to be issued, though they may not yet be available. Petitioner testified she always calls to confirm her benefits were loaded, and she was advised that FAP benefits from November 2015 had not loaded as expected. Petitioner testimony conceded she had no lapse in FAP eligibility.

MDHHS presented testimony that a check of Petitioner's case revealed no indication of a FAP benefit termination. MDHHS testimony also indicated Petitioner's FAP benefit period was not scheduled to end for several months. This testimony makes it less likely that MDHHS would have terminated Petitioner's FAP eligibility due to a failure by Petitioner to redetermine her FAP eligibility. It was not disputed that Petitioner's FIP and MA eligibility ended due to an alleged Petitioner failure to return a Redetermination (Exhibit 1, pp. 3-8). Petitioner thought her FAP eligibility ended for the same reason. The MDHHS testimony was more supported than Petitioner's testimony.

The presented Redetermination only indicated a review for FIP and MA benefits (see Exhibit 1, p. 3). The omission of FAP benefits from the Redetermination tends to support that MDHHS unlikely ended Petitioner's FAP eligibility due to a failure to return the Redetermination.

It is found that Petitioner had no threat to FAP eligibility. Petitioner's hearing request will be dismissed concerning her FAP dispute because an adverse action was not established.

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).

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 and MA eligibility. MDHHS testimony indicated Petitioner's eligibility for both programs ended due to Petitioner's failure to timely return redetermination documents.

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 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. Redetermination forms... include a Redetermination DHHS-1010. *Id.* [For MA,] benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 2. [For FIP benefits,] if the redetermination packet is not logged in by the negative action cut-off date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. *Id.*, p. 11.

The only dispute in the present case is whether Petitioner returned a Redetermination to MDHHS. MDHHS presented testimony that Petitioner did not. MDHHS further testified that a check of Petitioner's electronic case file (an electronic database of correspondence from clients) demonstrated Petitioner did not return redetermination documents. MDHHS' testimony was credible.

Petitioner testified she completed and timely mailed the Redetermination. Petitioner testified she placed the return envelope in her condominium's outgoing mailbox. Petitioner testified the mailbox is shared by other condominium residents. Petitioner also testified that other mailings she made from this mailbox have proved to be unreliable. Petitioner's testimony was indicative that she properly mailed her redetermination documents, but might not have been delivered to MDHHS. Based on the presented evidence, it is found that Petitioner's redetermination documents were not received by MDHHS.

It could be reasonably argued that Petitioner had knowledge that she mailed redetermination documents utilizing an unreliable method. Such an argument fails to consider the shame that the United States Postal Service should ever be an unreliable method for sending documents. Equitable considerations could dictate that Petitioner not be held responsible for a USPS failing to deliver documents. Equitable considerations may not be factored in the administrative hearing process. The only consideration is MDHHS policy.

MDHHS policy dictates that MDHHS cannot be faulted for not processing redetermination documents that were not received. Accordingly, it is found that MDHHS properly terminated Petitioner's FIP and MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner did not establish a dispute concerning FAP eligibility. It is further found that MDHHS properly terminated Petitioner's FIP and MA eligibility, effective December 2015. The actions taken by MDHHS are **AFFIRMED**.



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

Date Signed: **1/29/2016**

Date Mailed: **1/29/2016**

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:

