



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

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Date Mailed: March 9, 2016
MAHS Docket No.: 15-021944
Agency No.: ██████████
Petitioner: ██████████

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 three way telephone hearing was held on February 8, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator. Lead Worker, ██████████ appeared on behalf of the Office of Child Support (OCS).

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case and process her request for MA benefits?

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits on the basis that she failed to comply with child support requirements?

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 is the foster parent of her two nieces.
2. Petitioner's nieces were previously receiving MA benefits.

3. On July 20, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective August 1, 2015, MA benefits for the two children would be terminated on the basis that she failed to return a redetermination. (Exhibit A, pp 30-32)
4. On September 11, 2015, Petitioner completed a DHS-1171 Assistance Application requesting Family Independence Program (FIP) benefits, which included a handwritten note that she was also applying for MA. (Exhibit A, pp. 13-30)
5. On September 16, 2015, the Department sent Petitioner a Verification Checklist instructing her to submit requested verifications and to contact the OCS by September 28, 2015, in order to comply with child support reporting requirements. (Exhibit A, pp. 4-5)
6. Petitioner did not contact the OCS prior to September 28, 2015.
7. On September 29, 2015, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied on the basis that she failed to cooperate with child support requirements. (Exhibit A, pp. 6-9)
8. On November 20, 2015, Petitioner requested a hearing disputing the Department's actions.

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).

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.

Petitioner requested a hearing disputing the Department's actions with respect to her nieces' MA benefits. It was established at the hearing that Petitioner's nieces had previously been receiving MA benefits and that on July 20, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective August 1, 2015, MA benefits for the two children would be terminated on the basis that she failed to return a redetermination. (Exhibit A, pp 30-32). The Department's Notice of

Case Action to Petitioner was dated July 20, 2015, however, Petitioner did not file a request for hearing to contest the Department's action until November 20, 2015. (See Petitioner's hearing request). Department policy 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. BAM 600 (October 2015), p. 6. Therefore, Petitioner's hearing request with respect to the MA case closure effective August 1, 2015, was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

It was established at the hearing that on September 11, 2015, Petitioner completed a DHS-1171 Assistance Application on which she handwrote a note informing the Department that she was also requesting MA benefits for her nieces. (Exhibit A, pp. 13-30). There was no evidence presented that the Department ever processed Petitioner's request for MA assistance, determined eligibility for MA, or issued an eligibility notice advising of the approval or denial of MA coverage for the children. BAM 110; BAM 115 (July 2015); BAM 220 (July 2015). Although Department policy requires that to request MA benefits, the DCH -1426 Application for Health Coverage & Help Paying Costs may be used for all MA categories, the Department testified that in this case, after receiving the completed DHS-1171 for Petitioner's cash assistance application and seeing her handwritten note requesting MA, the Department should have assisted the client by providing Petitioner with a DCS-1426 and instructed her to complete and return the application in order for MA eligibility to be determined. BAM 105 (July 2015), p. 14; BAM 110 (July 2015), pp. 1-4.

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 Department's testimony and acknowledgments made during the hearing, the Department did not act in accordance with Department policy when it failed to process Petitioner's September 11, 2015, request for MA benefits.

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.

Additionally, the custodial parents of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical care from any third party. BEM 255 (April 2015), pp. 1,9. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-13. Cooperation is required in all phases of the process to establish

paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255, p 9.

At application, the client has ten days to cooperate with the OCS. The Department will inform the client to contact the OCS by sending a verification checklist (VCL). A disqualification will be imposed at application if the client fails to cooperate on or before the due date of the VCL and the criteria found in BEM 255 is not met. BEM 255, p. 11-12. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility for FIP. BEM 255, pp. 9-13.

In this case, the OCS representative testified that on December 20, 2014, a Final Contact Letter was sent to Petitioner informing her to contact OCS and provide information regarding the mother and father of the two children of whom she has custody. The Department testified that Petitioner was found to be in noncooperation on January 15, 2015, and that a Noncooperation Notice was issued. Petitioner submitted a new application for FIP benefits on or around September 11, 2015, and in accordance with Department policy, the Department established that it sent Petitioner a VCL informing her that she had ten days to contact the OCS to resolve the issues with child support and to end the noncooperation sanction imposed on her case. On September 29, 2015, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied on the basis that she failed to cooperate with child support requirements, as the OCS had not received any communication from Petitioner in connection with the VCL.

At the hearing, Petitioner stated that she has had an open OCS case for years and that she has previously provided OCS with the information on the mother and father of the children, which the OCS representative disputed. Although the Department stated that a review of the electronic case file shows that Petitioner submitted to the Department a custody order from the courts in ██████y on September 28, 2015, there was no evidence that Petitioner contacted OCS after receiving the VCL nor was there any evidence that Petitioner provided the OCS with sufficient and identifiable information concerning the noncustodial parents. Petitioner stated that she did not contact the OCS because she received a letter on July 31, 2015, advising her not to contact OCS or her case would be closed, however, a review of the letter provided establishes that it is unrelated to the current application and VCL at issue. (Exhibit 1). Petitioner testified that she sometimes receives court ordered child support (ordered by a court in ██████) from the children's father and additional testimony which suggests that Petitioner has more information on the absent parents than she has provided to the Department and to OCS.

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 because Petitioner failed to establish that she cooperated with OCS requirements found in BEM 255 by the date

listed on the VCL, the Department acted in accordance with Department policy when it denied Petitioner's FIP application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FIP and **REVERSED IN PART** with respect to MA.

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. Process Petitioner's September 11, 2015, request for MA benefits;
2. Determine MA eligibility from September 2015, ongoing; and
3. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab Baydoun
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]
[REDACTED]
[REDACTED]

Department Representative

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
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