



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: March 16, 2016  
MAHS Docket No.: 16-000858  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

### **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 March 10, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

### **ISSUES**

Did the Department properly end payments for Petitioner's Part B Medicaid insurance premiums for failure to complete the Redetermination?

Did the Department properly determine Petitioner's eligibility for CDC benefits?

Did the Department properly reduced Petitioner's FAP benefits for failing to timely submit requested documentation?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], the Department sent Petitioner a Redetermination relating to her MA benefits.

2. Petitioner failed to respond and the Department sent notice indicating that payments for the Part B Insurance Premium would end effective August 2015.
3. On [REDACTED], Petitioner completed a Child Care Family Preservation Need Verification.
4. On [REDACTED] the Department sent Petitioner a Notice of Case Action informing her that she had been approved for 40 hours of child care.
5. Petitioner is an ongoing, FAP, CDC and MA recipient.
6. On [REDACTED], the Department sent Petitioner a Verification Checklist requesting documents, including proof of shelter expenses, which was due on or before [REDACTED].
7. Petitioner failed to return the Verification Checklist.
8. On [REDACTED], the Department issued a Notice of Case Action informing Petitioner that her FAP benefits were being decreased because she failed to verify shelter expenses.
9. On [REDACTED] Petitioner filed a Request for hearing disputing the Department's actions relating to the MA, CDC and FAP programs.

### **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).

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. The Department (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.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

### **FAP**

Additionally, verifications are usually required at application/redetermination, and for a reported change affecting eligibility or benefit level. BAM 130 (July 2015), p. 1. Testimony in this case, revealed that Claimant moved on several occasions without timely notifying the Department of her changes in residence. The Department began receiving return mail from Petitioner's Dearborn Heights address in November 2014. Despite this, the Department continued to include a shelter expense in the calculation of Petitioner's food assistance benefits. On [REDACTED], the Department completed a Secretary of State clearance which provided some evidence that Petitioner resided at the Fielding address. Petitioner testified at the hearing that she has resided at the Fielding address since 2014.

On [REDACTED], the Department sent Petitioner a Verification Checklist which requested proof of shelter expenses. The verification was required to be returned on or before [REDACTED]. Petitioner failed to return the information required on the Verification Checklist. Petitioner testified at the hearing that she believed that she provided proof of shelter expenses in a timely manner. However, Petitioner's credibility was questionable. Initially Petitioner was unsure if she received the information. Petitioner then stated that she returned the documentation timely but was unable to provide a date of submission or a copies of documents submitted. Given, Petitioner's lack of recall and her pattern of failing to notify the Department of her changes in residences, it is found that Petitioner has not shown that she timely submitted the required documentation.

On [REDACTED], the Department sent a Notice of Case Action to Petitioner, notifying her that her FAP benefits would be reduced effective [REDACTED]. It is found that the Department properly reduced Petitioner's FAP benefits when she failed to return the required documentation. On [REDACTED], Petitioner provided a lease containing shelter expenses. Petitioner's FAP benefits were increased to \$636.00 effective [REDACTED], ongoing.

### **CDC**

Petitioner completed a Child Care Family Preservation Need Verification form which was received by the Department on [REDACTED]. The Department only approved

Petitioner for 40 hours of child care on a bi-weekly basis. Under Department policy, CDC Payments may be approved for P/SPs who are:

- Unavailable to provide care because they are participating in a court-ordered activity.
- Unavailable to provide care because they are required to participate in the treatment activity of another member of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home.
- Unable to provide care due to a condition for which they are being treated by a physician.
- Unavailable to provide care due to an employment or educational need that is part of the protective services/foster care services case plan. See BAM 703, pg. 5 (October 2015)

In this case, Petitioner requested CDC benefits because of a condition for which she was being treated by a medical physician. In calculating the need the Department is consider:

- Time spent in the activity.
- Meal periods during the work or school day.
- Study, tutoring and required lab time.
- Travel time from the child care provider to and from the activity. See BAM 710 pg. 1 (July 2015)

After the need has been calculated, the Department is required to round the biweekly figure up to the next whole hour if it includes a fraction and enter the calculated figure into Bridges. Bridges will adjust and authorize to the correct:

20 hours.  
40 hours.  
60 hours.  
80 hours.  
90 hours. See BAM 710, pg. 1 (*Id*).

According to Petitioner's documentation, she needs care eight hours per day and seven days per week, which would total 112 hours bi-weekly. Since the Department is limited to 90 hours bi-weekly, Petitioner should have received 90 hours bi-weekly if otherwise qualified. It is therefore found that Department failed to properly consider Petitioner's medical documentation in the calculation of CDC benefits.

## **MA**

The Department testified that it stopped paying Petitioner's Part B Insurance Premium because she failed to return the Redetermination. Additionally, the Department is required to periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors.

BAM 210 (July 2014), p. 1. The Department acknowledged that on [REDACTED], it sent Petitioner a Redetermination which was required to be returned by the specified date. The Department confirmed that the Redetermination was sent to Petitioner's Dearborn Heights address and that the mail was returned as undeliverable.

The Department testified that Petitioner completed a new application for MA benefits on [REDACTED] and indicated that she was residing at the Fielding address. Additionally, as previously stated the Department conducted an inquiry with the Social Security Administration which provided evidence that Petitioner was residing at the Fielding address. Despite this information, the Department did not send another Redetermination to the Fielding address. As such, it is found that the Department acted improperly when it stopped payments for Petitioner's Part B Insurance Premium for failure to return the Redetermination.

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 the Department acted in accordance with Department policy when it decreased Petitioner's FAP benefits effective [REDACTED]; did not act in accordance with policy in calculating the number of CDC hours allowed; and did not act in accordance with policy when it stopped payments for Petitioner's Part B Insurance Premiums.

### **DECISION AND ORDER**

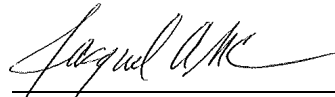
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the reduction of Petitioner's FAP benefits effective [REDACTED] and **REVERSED IN PART** with respect to Petitioner's CDC and MA benefits.

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. Redetermine Petitioner's eligibility for CDC benefits effective, [REDACTED], ongoing;
2. Issue supplements relating to Petitioner's Part B Insurance Premiums that Petitioner was eligible to receive but did not; and

3. Notify Petitioner in writing of its findings.

JM/hw



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**Jacquelyn A. McClinton**  
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]

**Petitioner**

[REDACTED]