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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: April 26, 2016
MAHS Docket No.: 16-001426
Agency No.: ██████████

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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 telephone hearing was held on March 31, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and was represented by ██████████, Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Manager.

ISSUE

Did the Department properly process Petitioner's Family Independence Program (FIP), State Disability Assistance (SDA), and Medical Assistance (MA) benefits?

Did the Department properly close Petitioner's Food Assistance Program (FAP) case and subsequently deny his application for FAP benefits on the basis that he was permanently disqualified from the FAP due to being convicted of two drug related felonies?

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 an unverified date, Petitioner submitted an application for cash assistance benefits under the FIP and SDA programs.

2. Petitioner verbally withdrew his hearing request with respect to the FIP and SDA programs.
3. Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP) with no lapse in his coverage. (Exhibit A; Exhibit B)
4. There was no negative action taken with respect to Petitioner's MA benefits prior to the hearing request.
5. Petitioner was an ongoing recipient of FAP benefits.
6. On December 21, 2015, Department sent Petitioner a Notice of Case Action informing him that effective February 1, 2016, his FAP case would be closed on the basis that he has been convicted of two drug related felonies and is ineligible for FAP benefits. (Exhibit C)
7. On January 19, 2016, Petitioner submitted an application for FAP benefits.
8. On January 22, 2016, the Department sent Petitioner a Notice of Case Action informing him that his application was denied on the basis that he has been convicted of two drug related felonies and is ineligible for FAP benefits. (Exhibit D)
9. On January 29, 2016, 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).

FIP/SDA/MA

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. Moreover, BAM 600, p. 6 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. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5.

The hearing was requested to dispute the Department's action taken with respect to the FIP and SDA programs. Soon after commencement of the hearing, Petitioner testified that there was no issue left to be resolved regarding FIP or SDA, as Petitioner was approved for and receiving SDA benefits which was verified by the eligibility summary provided by the Department. (Exhibit B). Petitioner further confirmed that he does not have any children, and thus would be ineligible for FIP benefits. Petitioner stated that he was satisfied with the Department's actions concerning the FIP and SDA programs and confirmed that no promises were made in exchange for his withdrawal. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing with respect to FIP and SDA is, hereby, **DISMISSED**.

In the present case, Petitioner was an ongoing recipient of MA benefits. On December 21, 2015, the Department notified Petitioner that he was approved for full coverage MA benefits for the period of September 1, 2015, ongoing. (Exhibit A). Petitioner requested a hearing disputing the Department's actions with respect to his MA benefits and at the hearing, indicated that he was not aware he had an active MA case. Petitioner stated that he did not receive any notices from the Department informing him that his MA case was closed or any similar negative action notice. There was no evidence presented that Petitioner applied for MA and was denied. Additionally, the Department presented an eligibility summary which confirms that Petitioner has had active and ongoing MA benefits under the HMP with no lapse in his coverage and that his MA benefits continued to be approved for April 1, 2016, ongoing. (Exhibit B).

Upon further review and based on the testimony provided by both Petitioner and the Department, as well as the documentary evidence presented, Petitioner has failed to

establish that the Department had taken any negative action on his MA benefits prior to his hearing request, as Petitioner was approved for MA with no lapse in coverage. BAM 600, p. 4-5. Therefore, Petitioner's hearing request with respect to MA is **DISMISSED** for lack of jurisdiction.

FAP

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.

Additionally, people convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (October 2015), p. 1. Specifically with respect to FAP cases, an individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. BEM 203, p.2.

In this case, the Department testified that it received correspondence from the Office of Inspector General (OIG) alleging that an electronic data match revealed that Petitioner has been convicted of two separate drug related felonies in Wayne County, each occurring after August 22, 1996. (Exhibit E). The information obtained by the OIG alleged that Petitioner had a drug related felony conviction on February 7, 1997, and October 31, 2006. (Exhibit E). On December 21, 2015, the Department sent Petitioner a Notice of Case Action informing him that effective February 1, 2016, his FAP case would be closed because he was permanently disqualified from the FAP as a result of having two or more drug related felony convictions. (Exhibit C). The Department denied Petitioner's subsequent January 19, 2016, FAP application for the same reason. (Exhibit D).

At the hearing, Petitioner disputed being convicted of two drug related felonies and stated that he only recalled one conviction. While the report prepared by the OIG agent indicates that an electronic data match revealed felony convictions for February 7, 1997, and October 31, 2006, in Wayne County, the Department did not present any verification or documentation in support of its assertion that Petitioner had two drug related felony convictions each occurring after August 1996, other than the report by an OIG agent who was not present for the hearing. Therefore, the Department failed to present sufficient evidence that Petitioner should be permanently disqualified from receiving FAP benefits as a result of having two drug related felony convictions.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case and subsequently denied his FAP application. Because

both the FAP case closure and application denial took effect February 1, 2016, the Department will be ordered to reinstate Petitioner's FAP case, as opposed to reprocessing the FAP application.

DECISION AND ORDER

Accordingly, the hearing request with respect to FIP, SDA, and MA is **DISMISSED** and the Department's FAP decision is **REVERSED**.

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. Reinstate Petitioner's FAP case effective February 1, 2016;
2. Issue FAP supplements to Petitioner for FAP benefits from February 1, 2016, ongoing; and
3. Notify Petitioner in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

ZB/tlf

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

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