



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 20, 2016
MAHS Docket No.: 16-008014
Agency No.: 1 [REDACTED]; [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 July 13, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by Nichole Phillips, Family Independence Manager.

ISSUES

Did the Department properly implement and certify previous Decision and Orders (D&O) regarding administrative hearings held on November 19, 2015 and March 28, 2016?

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective June 1, 2016?

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 September 24, 2015, Petitioner previously filed a hearings request, protesting his Food Assistance Program (FAP) benefits. See Exhibit A, p. 20.
2. On November 19, 2015, an administrative hearing was held in which Administrative Law Judge (ALJ) Robert J. Chavez issued a hearing decision on December 1, 2015 and ordered the Department to reopen Petitioner's FAP benefit

case that was closed on August 1, 2015, retroactive to August 1, 2015 (Reg. No. 15-017997). See Exhibit A, pp. 20-23.

3. Subsequent to ALJ Chavez's hearing decision, Petitioner again filed a hearing request disputing the Department's actions relating to his FAP benefits, claiming that the Department failed to comply with the prior administrative order. See Exhibit A, p. 5.
4. On March 28, 2016, an administrative hearing was held with ALJ Jacquelyn McClinton, and she issued a hearing decision on April 4, 2016 in which she found that the Department failed to comply with ALJ Chavez's order and ordered the Department to do the following: (i) comply with the December 1, 2015 Decision and Order, which includes the Michigan Combined Application Project (MiCAP) unit within the Department of Health and Human Services reopening Petitioner's FAP benefits as of August 1, 2015, if otherwise eligible; (ii) issue supplements Petitioner was entitled to receive but did not receive effective August 1, 2015; and (iii) notify Petitioner in writing of its decision (Reg. No. 16-001695). See Exhibit A, pp. 4-8.
5. Effective August 1, 2015 to May 31, 2016, Petitioner's FAP case had been reinstated (not under the MiCAP program) and he received a monthly FAP allotment of \$171 during this period (Case No. 102418493). See Exhibit A, pp. 14-19 (Benefit Summary Inquiry and Eligibility Summary).
6. Effective June 1, 2016, Petitioner's FAP case close under Case No. [REDACTED]. See Exhibit A, p. 16.
7. Effective June 1, 2016, Petitioner's FAP benefits was opened under the MiCAP program (Case No. [REDACTED]), and he has been receiving a monthly FAP allotment of \$171. See Exhibit A, p. 11.
8. On June 8, 2016, Petitioner filed the present hearing request disputing the Department's action relating to his FAP benefits. See Exhibit A, pp. 2-3.

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.

Preliminary matter

At the time of Petitioner's hearing request, he requested a hearing alleging the following: (i) the Department failed to comply with ALJ Chavez's and ALJ McClinton's previous orders requiring that his FAP benefits be reinstated effective August 1, 2015; (ii) the Department failed to comply with ALJ McClinton's order to provide him written notice; and (iii) Petitioner was disputing the closure of his FAP benefits effective June 1, 2016. See Exhibit A, pp. 2-3. The undersigned will address Petitioner's concerns below:

Implementing the Hearing Decision

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). BEM 618 (July 2014 to January 2016), p. 1. MiCAP is a series of waivers that allows Michigan Department of Health and Human Services (MDHHS) to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618, p. 1. The program is administered by the centrally located MiCAP unit. BEM 618, p. 1. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit. BEM 618, p. 1.

The amount of Food Assistance Program (FAP) benefits MiCAP individuals receive is determined by their total shelter expenses, (shelter plus heat and utility expenses). BEM 618, p. 3. If an individual's total shelter expenses are below \$1,000, the FAP benefit is \$171 per month. BEM 618, p. 3. If the total shelter expenses are equal to or exceed \$1,000, the benefit amount is \$185 per month. BEM 618, p. 3.

In the present case, ALJ Chavez held a previous administrative hearing on November 19, 2015 to address Petitioner's concerns with his FAP benefits. See Exhibit A, p. 20. On December 1, 2015, ALJ Chavez issued a hearing decision in which he ordered the Department to reopen Petitioner's FAP benefit case that was closed on August 1, 2015, retroactive to August 1, 2015 (Reg. No. 15-017997). See Exhibit A, pp. 20-23.

Subsequent to ALJ Chavez's hearing decision, Petitioner again filed a hearing request disputing the Department's actions relating to his FAP benefits, claiming that the Department failed to comply with the prior administrative order. See Exhibit A, p. 5.

On March 28, 2016, an administrative hearing was held with ALJ McClinton and she issued a hearing decision on April 4, 2016, in which she found that the Department failed to comply with ALJ Chavez's prior administrative order and ordered the Department to do the following: (i) comply with the December 1, 2015 Decision and Order, which includes the MiCAP unit within the Department of Health and Human Services reopening Petitioner's FAP benefits as of August 1, 2015, if otherwise eligible;

(ii) issue supplements Petitioner was entitled to receive but did not receive effective August 1, 2015; and (iii) notify Petitioner in writing of its decision (Reg. No. 16-001695). See Exhibit A, pp. 4-8.

On June 8, 2016, Petitioner again filed the present hearing request disputing the Department's failure to process the previous administrative orders. See Exhibit A, pp. 2-3.

At the time of Petitioner's hearing request, he had two concerns: (i) the Department failed to comply with ALJ Chavez's and ALJ McClinton's previous orders requiring that his FAP benefits be reinstated effective August 1, 2015; and (ii) the Department failed to comply with ALJ McClinton's order to provide him written notice that the Department complied with the orders.

Shortly after commencement of the hearing, it was discovered that the Department complied with Petitioner's first issue. Both parties acknowledged that his FAP benefits had been reinstated and the Department issued him supplements that he was entitled to receive from August 1, 2015, ongoing. See Exhibit A, pp. 11 and 14-19. After including the supplements that the Department issued to the Petitioner, the evidence established that he received a monthly FAP allotment of \$171 for the period of August 1, 2015 to May 31, 2016 (Case No. 102418493) and \$171 for the period of June 1, 2016, ongoing, under the MiCAP program (Case No. 122288104). See Exhibit A, pp. 11 and 14-19. Moreover, as shown above, Petitioner was not placed under the MiCAP program until June 2016, rather than August 2015. Nevertheless, this issue is moot as Petitioner ultimately received the proper amount of benefits, whether it was under the MiCAP program or the general FAP program. Therefore, the issue of complying with the previous administrative orders to reinstate benefits and issue supplements effective August 1, 2015 has been resolved.

But, Petitioner argued that the Department failed to comply with ALJ McClinton's order to provide him written notice of its decision. See Exhibit A, p. 6. Specifically, Petitioner testified that he sought written notice (i.e., Notice of Case Action or Benefit Notice) informing him the amount of benefits he was awarded on or about August 1, 2015, ongoing. Both parties acknowledged that no such notice had been issued.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (October 2015), p. 41. Some hearing decisions require implementation by the local office. BAM 600, p. 41. Implement a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 41. **Do not provide a notice of case action. The hearing decision serves as notice of the action.** BAM 600, p. 41 and p. 1 (Do not provide a notice of case action when implementing a hearing decision or policy hearing authority decision. The decision serves as notice of the action). If implementation requires a redetermination, send a notice of case action on the redetermination action. BAM 600, p. 41.

Based on the foregoing information and evidence, the undersigned finds that the Department complied with ALJ McClinton's order to provide written notice of its decision in accordance with Department policy. See BAM 600, pp. 1 and 41.

First, the undersigned finds that it is harmless error that the Department did not issue a notice of case action or benefit notice informing Petitioner that the Department complied with the orders. Ultimately, Petitioner's FAP issue had been resolved because the Department complied with the orders when it reinstated benefits and issued him supplements. As such, the undersigned finds it to be harmless error that no written notice had been issued.

Second, the undersigned finds that the Department did provide Petitioner documentation showing that the Department complied with the previous orders. Specifically, the evidence record for this hearing contained Eligibility Summaries and Benefit Summary Inquires showing that his benefits had been reinstated since August 1, 2015, ongoing, and that he had been issued supplements from August 1, 2015, ongoing. See Exhibit A, pp. 11 and 14-19.

Third, policy clearly states that the Department does not provide a notice of case action because the hearing decision serves as the actual notice of the action. See BAM 600, pp. 1 and 41. In the present case, ALJ Chavez and ALJ McClinton issued Petitioner written hearing decisions on December 1, 2015 and April 4, 2016, ordering the Department to reinstate FAP benefits effective August 1, 2015. See Exhibit A, pp. 4-8 and 20-23. Per BAM 600, these hearing decisions serve as notice of the action; therefore, the Department did not need to issue Petitioner written notice that it complied with the previous orders. See BAM 600, pp. 1 and 41.

For the above stated reasons, the undersigned finds that the Department acted in accordance with Department policy when it complied with the Decision and Orders issued on December 1, 2015 (Reg. No. 15-017997), and April 4, 2016 (Reg. No. 16-001695).

FAP closure

At the time of the hearing request, Petitioner also disputed the closure of his FAP benefits effective June 1, 2016. As stated in the analysis above, the Department complied with the previous orders when it reinstated his FAP benefits and issued him supplements that he was entitled to receive from August 1, 2015, ongoing. See Exhibit A, pp. 11 and 14-19. After including the supplements that the Department issued to the Petitioner, he received a monthly FAP allotment of \$171 for the period of August 1, 2015 to May 31, 2016 (Case No. [REDACTED]). See Exhibit A, pp. 14-19. However, the Department subsequently closed Petitioner's FAP benefits under Case No. 102418493, effective June 1, 2016. See Exhibit A, p. 16. As a result, this prompted the Petitioner to request the present hearing in which he disputed the closure of the FAP benefits. See Exhibit A, pp. 2-3. Nevertheless, the Department subsequently reinstated his FAP benefits under the MiCAP program (Case No. [REDACTED]), which resulted in no lapse of

coverage. See Exhibit A, p. 11. Effective June 2016, Petitioner's monthly FAP allotment under the MiCAP program continued to be \$171. See Exhibit A, p. 11. Moreover, Petitioner acknowledged that his FAP benefits had been reinstated and that he had no lapse in coverage.

Based on the foregoing information and evidence, Petitioner's FAP hearing request as it relates to the closure of his benefits is moot because the Department conducted subsequent actions in which it resolved Petitioner's dispute. As a result, Petitioner's FAP hearing request in regards to the closure of his benefits is **DISMISSED**. See BAM 600, pp. 1-6.

DECISION AND ORDER

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 (i) the Department acted in accordance with Department policy when it complied with the Decision and Orders issued on December 1, 2015 (Reg. No. 15-017997), and April 4, 2016 (Reg. No. 16-001695); and (ii) Petitioner's FAP hearing request in regards to the closure of his benefits effective June 1, 2016 is **DISMISSED**.

Accordingly, the Department's FAP decision is **AFFIRMED**.

EF/hw



Eric J. Feldman

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


12140 Joseph Campau
Hamtramck, MI 48212
BSC4-HearingDecisions
FAP

Petitioner

