



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: December 6, 2016
MAHS Docket No.: 16-015986
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 November 28, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], case manager. [REDACTED] appeared as an observer for MDHHS.

ISSUES

The first issue is whether MDHHS properly failed to process Petitioner's son's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly failed to process Petitioner's Medical Assistance (MA) eligibility.

The third issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 April 18, 2016, Petitioner submitted a MA benefit application to MDHHS.
2. Petitioner's application did not request MA benefits for her son.

3. Petitioner's application implied a request for MA benefits for herself.
4. MDHHS did not process Petitioner's MA application.
5. Petitioner was an ongoing FAP recipient.
6. Petitioner's FAP eligibility was subject to semi-annual review, effective September 2016.
7. On [REDACTED], Petitioner submitted verification of her niece's income to MDHHS.
8. MDHHS failed to process Petitioner's ongoing FAP eligibility, effective September 2016, due to Petitioner's alleged failure to verify her niece's income.
9. On [REDACTED], Petitioner requested a hearing to dispute the MDHHS failure to process MA eligibility for herself and her son, as well as the termination of FAP benefits.

CONCLUSIONS OF LAW

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).

Petitioner requested a hearing, in part, to dispute an alleged failure by MDHHS to process an MA application. Petitioner testified her MA dispute concerned eligibility for herself and her son. It was not disputed that MDHHS did not process MA eligibility for Petitioner or her son.

The DCH-1426 may be used for all MA categories. BAM 100 (July 2016), p. 4. The date of application is the date the local office receives the required minimum information on an application or the filing form. *Id.*, p. 5.

The DHS-1426 requires the applicant to complete a page for each household member. On each page, a question is asked if the persons needs health care coverage. When health care coverage is needed, the application directs the applicant to complete the questions on the bottom of the page. When health care coverage is not needed for a household member, the application advises the applicant to forego answering the remaining questions on that page.

MDHHS presented a DHS-1426 (Exhibit 1, pp. 1-8). The MA application was signed by Petitioner on [REDACTED]. The application stated Petitioner's son did not need health care coverage (see Exhibit 1, p. 5). After checking "NO" to whether her son needed health insurance, Petitioner left the subsequent questions on that page unanswered.

Petitioner's failure to check that her son needed health insurance or to answer questions related to health insurance support a finding that Petitioner did not apply for MA benefits for her son. Thus, MDHHS had no obligation to process MA eligibility for Petitioner's child.

Petitioner also happened to check "NO" in response to a question if she wanted health insurance. Petitioner's response suggests MDHHS may not have had an obligation to process MA eligibility for Petitioner; other considerations suggest otherwise.

Petitioner completed the questions below her response to whether she wanted health insurance. This considerations suggests Petitioner intended to apply for health insurance.

Petitioner only listed herself and her son as household members. There is no rational reason a person would complete an MA application without requesting health insurance for at least one member. If MDHHS interpreted Petitioner's application in such fashion, MDHHS would have surely known that Petitioner's application responses were not what she intended. MDHHS should have interpreted Petitioner's response to questions after her statement that she did not need health insurance as an intent to have health insurance. It is found Petitioner's application for MA benefits implied an intent to request health insurance for herself.

MDHHS has certain timeframes in which applications should be processed; the timeframes are referred to as standards of promptness. [For MA benefits, MDHHS is to] certify program approval or denial of the application within 45 days. BAM 115 (January 2015), p. 13.

MDHHS' 45 day deadline has long passed. MDHHS will be ordered to register and process Petitioner's MA application. MDHHS should also allow Petitioner to amend her application to allow for Petitioner to apply for MA benefits for her son.

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 termination of FAP benefits. MDHHS failed to address the dispute within their summary but was given leniency in

justifying the termination during the hearing. It was not disputed the FAP termination began September 2016. MDHHS eventually stated Petitioner specifically failed to verify employment income for her niece. It was not disputed that Petitioner's FAP eligibility was stopped due to Petitioner's alleged failure to submit verifications associated with a Semi-Annual Contact Report.

Bridges sends... a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (July 2016), p. 10. A report is considered complete when all of the sections (including the signature section) on the DHS-1046... are answered completely and required verifications are returned by the client or client's authorized representative. *Id.*, p. 10.

The client's gross earned income from his/her most current budget is pre-filled on the DHS-1046. *Id.*, p. 11. If the client's gross income has changed by more than \$100 from the pre-filled amount on the form, he/she must return verification of his/her past 30 days of earnings with his/her completed DHS-1046. *Id.* If the client indicates his/her gross earned income has not changed by more than \$100, verification of the past 30 days is not required. *Id.* However, income must be budgeted and EDBC run if a client checks "No" to the questions, but supplies proof of income. *Id.*

MDHHS failed to present Petitioner's Semi-Annual Contact Report and did not provide testimony concerning Petitioner's responses. Thus, it is not known whether Petitioner reported if her niece's income changed. It could be found that MDHHS failed to establish a basis for requiring proof of Petitioner's niece's income. Such a finding would ultimately not resolve the present dispute.

Typically, if MDHHS fails to establish a basis for benefit termination, benefits can be ordered to be continued at the previous issuance amount. Benefits cannot be ordered to be continued when benefits stopped at the end of a benefit period. Due to insufficient information, it cannot be stated if MDHHS can complete Petitioner's redetermination because it is not known if Petitioner was or was not exempt from verifying her niece's income. Thus, an order for MDHHS to redetermine Petitioner's FAP eligibility would likely result in another hearing to determine whether Petitioner needed to submit verification of her niece's income; such an outcome seems highly inefficient. For purposes of the analysis, it will be found that Petitioner was required to verify her niece's employment income.

Petitioner alleged she submitted a letter from her niece's employer to MDHHS on August 1, 2016. Petitioner brought the letter to the hearing, though it was not presented as an exhibit. It was not disputed the letter was dated [REDACTED]. This evidence was consistent with a timely submission of Petitioner's niece's employment income.

MDHHS testimony indicated Petitioner's electronic case file demonstrated Petitioner submitted a Semi-Annual Contact Report on [REDACTED], however, the employment letter did not appear within the case file. This evidence was consistent with finding Petitioner did not submit verification of her niece's employment income.

Petitioner testified she would have had the letter date stamped by the MDHHS front desk, however, MDHHS conceded their office procedure is to date only one document when several documents are submitted. If MDHHS date stamped each document submission, or allowed clients to date stamp their own documents, then it could be found that Petitioner failed to verify her document submission. The imperfect MDHHS office policy of date stamping only one document of a multi-document submission renders it difficult for a client to verify a document submission.

In determining whether MDHHS may have misplaced Petitioner's submission, MDHHS was not helped by their lack of preparation. MDHHS demonstrated negligence by failing to address Petitioner's FAP dispute within their case summary. Such negligence increases the possibility that MDHHS was also negligent in handling Petitioner's alleged document submission.

Based on presented evidence, it is found that Petitioner verified her niece's employment income on [REDACTED]. Accordingly, the corresponding FAP benefit termination was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly failed to process Petitioner's non-existent application for her son's MA eligibility. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's application for MA benefits. It is further found MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Register and process Petitioner's MA application dated [REDACTED];
- (2) Process Petitioner's FAP eligibility, effective September 2016, subject to the finding Petitioner verified her niece's employment income on [REDACTED].
- (3) Issue a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]