



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 9, 2016
MAHS Docket No.: 16-000677
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 March 3, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's friend, testified on behalf of Petitioner and appeared as a [REDACTED] translator. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS denied Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly restricted Petitioner's spouse's Medical Assistance (MA) eligibility.

The third issue is whether Petitioner timely requested a hearing to dispute his MA eligibility.

The fourth issue is whether Petitioner is entitled to an administrative hearing seeking a change in his assigned MDHHS specialist.

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 was an ongoing MA benefit recipient.
2. On an unspecified date before [REDACTED], MDHHS issued a written notice informing Petitioner his MA eligibility was ending.
3. On [REDACTED], Petitioner applied for FAP benefits.
4. On an unspecified date, MDHHS approved Petitioner for FAP benefits of \$16/month.
5. On an unspecified date, MDHHS issued Emergency Services Only (ESO) Medicaid to Petitioner's spouse.
6. Petitioner's spouse was not a United States citizen or otherwise qualified alien.
7. On [REDACTED], Petitioner requested a hearing to dispute the termination of his MA eligibility, his spouse's MA eligibility for January 2016, a denial of FAP benefits, and to request a new eligibility specialist.

CONCLUSIONS OF LAW

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 FAP eligibility. Concerning, FAP eligibility, Petitioner's hearing request stated "Too many case #s. I would like to have... Food Stamp case reviewed." The statement did not provide sufficient insight into why Petitioner requested a hearing.

During the hearing, Petitioner was given an opportunity to clarify what FAP action he disputed. Petitioner testified (through his translator) he was "not getting food stamps." Petitioner then reiterated he was not receiving FAP benefits. Petitioner testified he applied for FAP benefits on [REDACTED]; MDHHS testimony corroborated Petitioner's FAP application date to be correct.

MDHHS responded Petitioner's application was approved on [REDACTED], for issuances of \$16 per month. Petitioner initially disputed the MDHHS to be accurate and repeated his claim that he is not receiving FAP benefits. After some pressing, Petitioner eventually testified he received \$16 in FAP benefits.

Consideration was given to whether Petitioner's hearing request intended to dispute the amount of his FAP eligibility. Petitioner could have specified his FAP dispute by simply checking two boxes, "FAP" and "amount"; Petitioner did not do this. Petitioner could have written a hearing request statement indicating he disputed the amount of his FAP eligibility. Instead he wrote a vague statement which did not clarify his specific dispute. During the hearing, Petitioner could have simply stated he received FAP benefits and disputed the amount; instead Petitioner three times stated he did not receive any FAP benefits and that is why he wanted a hearing. Based on Petitioner's vague hearing request and unambiguous testimony, it is found Petitioner's FAP dispute only concerned receipt of FAP benefits. As it was not disputed Petitioner was approved for FAP benefits, Petitioner's hearing request will be partially dismissed.

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 MA eligibility. Petitioner's hearing request indicated too many case numbers somehow affected his MA eligibility. It is not known why Petitioner was concerned with which case numbers were associated with his or his family's eligibility. Petitioner was asked to specify what MA eligibility decision he disputed. Petitioner testimony indicated part of his dispute concerned a termination of his MA eligibility from July 2015. Petitioner testimony conceded he received written notice of the termination at the time his MA eligibility ended.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (4/2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

Petitioner requested a hearing on [REDACTED]. The exact date of written notice of the termination of Petitioner's MA eligibility was not verified. Presented evidence sufficiently verified that at least 5 months had passed between the time of written notice and Petitioner's hearing request. The dispute concerning Petitioner's MA eligibility will be dismissed because Petitioner failed to timely request a hearing.

Petitioner also testified he requested a hearing to dispute his spouse's MA eligibility. It was not disputed his spouse was eligible for ESO Medicaid.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. BEM 225 (October 2014), p. 2. To be eligible for full MA coverage a person must be a

U.S. citizen or an alien admitted to the U.S. under a specific immigration status. *Id.* For MA benefits, qualified alien status can also be met for aliens admitted into the U.S. with a class code on the I-551 other than RE, AM or AS. *Id.*, p. 7. For non-qualified aliens, MA eligibility is limited to emergency services only for the first five years in the United States. *Id.*, p. 8. Any of the following persons are considered to have an acceptable alien status (*Id.* pp. pp. 3-4, 5-9, 11-19, 31-33):

- United States citizens (includes those born in Puerto Rico)
- born in Canada and at least 50% American Indian
- member of American Indian tribe
- qualified military alien, spouse or child of qualified military alien,
- refugee under Section 207
- asylee under Section 208
- Cuban/Haitian entrant
- Amerasian
- victim of trafficking
- permanent resident alien with class code of RE, AS, SI or SQ
- permanent resident alien and has I-151
- deportation withheld (under certain conditions)
- granted conditional entry under 203(a)(7)
- paroled under 212(d)(5) for at least one year (under certain conditions)
- battered aliens, if more than five years in the United States
- permanent resident alien with a class code other than RE, AM or AS, if in the United States for longer than 5 years

During the hearing, Petitioner was asked why he thought his wife should have received unrestricted Medicaid. Petitioner essentially conceded she should receive restricted Medicaid. The concession was consistent with Petitioner's testimony that his spouse entered the United States on [REDACTED]. Petitioner responded that he only wished to dispute his wife's MA eligibility for January 2016. Petitioner essentially contended that his wife was entitled to unrestricted MA for January 2016 because his spouse gave birth in December 2015.

MDHHS policy provides no pregnancy or post-partum exceptions. Presumably, Petitioner did not dispute his spouse's ESO restriction in December 2015 because his wife's hospital bills were covered because they were considered emergency services. The payment of the bill does not change that she was eligible for ESO Medicaid in December 2015 or subsequent months. It is found MDHHS properly restricted Petitioner's spouse's MA coverage to ESO.

Petitioner lastly stated he wanted a hearing to request a change in specialist. Petitioner's hearing request was silent concerning the request. For purposes of this decision, it will be accepted that Petitioner requested a hearing for a change in specialist.

The Michigan Administrative Hearing System may grant a hearing about any of the following (see BAM 600 (June 2015), p. 4):

- 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;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

Based on the presented evidence, Petitioner failed to establish any improper actions by MDHHS or his specialist. Even if such actions were established, an administrative hearing is not the appropriate method to elicit such change. Petitioner's hearing request will be dismissed concerning this issue.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner untimely requested a hearing to dispute a termination in MA benefits, effective July 2015. It is also found Petitioner had no dispute concerning FAP eligibility. It is further found Petitioner is not entitled to an administrative remedy concerning a desire to change his eligibility specialist. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's spouse's MA eligibility for January 2016. The actions taken by MDHHS are **AFFIRMED**.

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]