



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 25, 2016  
MAHS Docket No.: 16-001225  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 17, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with [REDACTED], Case Manager and [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

### **ISSUE**

Did the Department properly process Petitioner's Food Assistance Program (FAP) benefits and Medical Assistance (MA) benefits?

### **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 recipient of FAP benefits in the amount of \$16 since March 2015. (Exhibit D)
2. In connection with a mid-certification, Petitioner's eligibility to receive FAP benefits was reviewed.
3. On December 1, 2015, the Department sent Petitioner a Mid-Certification Contact Notice which he was instructed to complete and return to the Department by January 1, 2016. (Exhibit A)

4. Petitioner moved to a new residence on or around December 1, 2015.
5. Petitioner did not return the Mid-Certification Contact Notice by the January 1, 2016.
6. On January 10, 2016, the Department sent Petitioner a Notice of Potential FAP Closure informing him that effective January 31, 2016, his FAP case would be closed because he failed to return the mid-certification form. (Exhibit C)
7. On January 15, 2016, Petitioner submitted an application for MA benefits on which he reports that he is disabled and receiving social security income. (Exhibit E)
8. On January 15, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was approved for full coverage MA benefits for January 1, 2016, ongoing. (Exhibit F)
9. Petitioner was approved for MA under the Healthy Michigan Plan (HMP) for the month of January 2016. (Exhibit D)
10. On January 19, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective February 1, 2016, he was ineligible for MA under the HMP because he is enrolled in Medicare and that he is ineligible for MA under the Aged, Blind, Disabled category because he does not meet the requirements. (Exhibit G)
11. On February 5, 2016, Petitioner requested a hearing disputing the Department's actions with respect to his FAP and MA benefits.

### **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).

#### **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.

Petitioner raised two concerns at the hearing concerning his FAP benefits: the amount of his benefits at \$16 monthly prior to the case closure; and the closure of his FAP case.

#### FAP Benefit Allotment

Because Petitioner has been receiving the same amount of FAP benefits since March 2015 and he did not request a hearing until February 5, 2016, the amount of his FAP benefits for the month prior to the case closure (January 2016) will be reviewed. The Department presented a FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit A). All countable earned and unearned income available to the client and group must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 5. The Department considers the gross amount of money earned from RSDI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (October 2015), pp. 28-32. The Department concluded that Petitioner had \$1261 in unearned income which it testified consisted of Petitioner's monthly RSDI benefits. Petitioner confirmed the amount relied on and the Department; thus, the Department properly calculated Petitioner's unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (October 2015), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that he had any out of pocket dependent care expenses. Petitioner confirmed that the \$346.47 child support deduction applied by the Department was accurate, as his support expense just recently increased. The Department also applied a medical deduction which it testified consisted of Petitioner's insurance premium and additional medical expenses that were submitted, the amount of which was undisputed by Petitioner. Based on his confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1. The Department determined that Petitioner was not eligible for an excess shelter deduction because he did not have any verified housing or utility expenses. BEM 554, pp.16-19;BEM 556, pp. 4-5.

Petitioner confirmed that prior to December 2015, he did not have any housing expenses but stated that on December 1, 2015, he moved into a new residence and became responsible for \$500 in monthly rent. Petitioner testified that in December 2015 he contacted his case worker and informed her of the change in address and rental expense. Petitioner then stated that in December 2015 and again on January 15, 2016, he provided his case worker with a letter confirming his new rental expenses and change in address. Petitioner confirmed that all utilities are included in the cost of his monthly rent and stated that he is responsible for telephone cost, which the Department failed to include in the calculation of the excess shelter deduction.

After further review, 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 because of the errors in the calculation of the excess shelter deduction (rental and telephone expense) the Department did not act in accordance with Department policy when it calculated the amount of Petitioner's FAP benefits effective January 1, 2016.

#### FAP Case Closure

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (January 2016), p 1. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p.1. The Department will send a Mid-Certification Contact Notice (DHS-2240-A) for groups assigned a 24 month benefit period during the 11<sup>th</sup> month of their benefit period. The DHS-2240-A is considered complete when all of the sections are answered completely and required verifications are returned and the results certified in Bridges by the last day of the 12<sup>th</sup> month after the completed notice and proofs are returned. BAM 210, pp. 8-9. If the DHS-2240A is not logged in Bridges by the 10<sup>th</sup> day of the 12<sup>th</sup> month, Bridges will generate a DHS-2240B, Potential Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the DHS-2240A and all required verifications by the last day of the month, or the case will close. BAM 210, p. 11.

In this case, the Department stated that because it did not receive a completed Mid-Certification Contact Notice, it sent Petitioner a Notice of Potential FAP closure and his case closed effective January 31, 2016. At the hearing, Petitioner stated that he did not receive the Mid-Certification Notice and Notice of Potential FAP closure because they were mailed to his old address. Petitioner testified that he moved on December 1, 2015, and as referenced above, made attempts to notify his case worker of his new updated mailing address. Petitioner also subsequently applied for MA benefits on January 15, 2016, and again reported his change in mailing address. Therefore, because Petitioner established that he reported his change in address to the Department, the Department did not act in accordance with Department policy when it closed Petitioner's FAP case based on a failure to return a Mid-Certification Contact Notice, as it was sent to Petitioner's old address.

**MA**

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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2016), p. 1; Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

In this case, Petitioner submitted an application for MA benefits on January 15, 2016, on which he reports receiving social security income and alleges a disability. (Exhibit E). The Department processed Petitioner's MA application and approved him for MA under the HMP for the month of January 2016.

HMP is available to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1.

The Department then sent Petitioner a Health Care Coverage Determination Notice on January 19, 2016, advising him that his MA case would be closed effective February 1, 2016, as he does not meet the criteria for HMP eligibility because he is enrolled in Medicare. The Notice further informed Petitioner that he was not eligible for SSI related MA because he was not aged, blind, or disabled.

Petitioner, who receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (October 2014), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. At the hearing, the Department stated that Petitioner's application was not processed as a SSI related MA case and that his eligibility for SSI related MA was never determined, despite his indication on his application that he has physical impairments and that he is a social security recipient.

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 did not act in accordance with Department policy when it closed Petitioner's MA case effective February 1, 2016, and failed to determine his eligibility for a SSI related MA program.

### **DECISION AND ORDER**

Accordingly, the Department's FAP and MA decisions are **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 January 31, 2016;
2. Recalculate Petitioner's FAP budget for January 2016, ongoing;
3. Issue FAP supplements to Petitioner for any FAP benefits he was eligible to receive but did not from January 1, 2016, ongoing;
4. Process Petitioner's Mid-Certification Contact Notice to determine his ongoing FAP eligibility;
5. Reinstate Petitioner's MA case effective February 1, 2016;
6. Determine Petitioner's MA eligibility under the most beneficial category for the period of February 1, 2016, ongoing;
7. Provide Petitioner with MA coverage from February 1, 2016, ongoing; and
8. Notify Petitioner in writing of the Department's decisions.



---

**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

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]