



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: April 22, 2016
MAHS Docket No.: 16-002729
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on April 21, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly close the Petitioner's Medical Assistance (MA) case for failure to complete the Redetermination?
2. Is the Petitioner entitled to request a hearing regarding Family Independence Program (FIP) cash assistance even though she has not applied for benefits?
3. Is the Petitioner's request for hearing regarding the closure of her Food Assistance Program (FAP) case in 2014 a timely hearing request?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was sent a Redetermination in both January 2016 and February 2016. The Petitioner completed a Redetermination in March 2016. Exhibit 2.

2. The Department issued a Health Care Determination Notice on February 17, 2016, finding that the Petitioner was not eligible beginning March 1, 2016, for failure to complete the Redetermination. Exhibit 1.
3. Thereafter, the Department determined MA eligibility in March 2016 and activated the Petitioner's MA effective March 1, 2016, and her for her minor son effective April 2016. Exhibit 3.
4. At the time of the hearing, the Petitioner did not have an active FAP case. The last time Petitioner received FAP was in December 2014.
5. At the time of the hearing request, the Petitioner was not receiving FIP cash assistance and had not applied for FIP benefits.
6. The Petitioner requested a hearing on February 26, 2016, protesting 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).

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 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.

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.

In this case, the Department presented evidence at the hearing that the Petitioner's MA was fully approved and effective commencing March 1, 2016, ongoing and that her minor child's MA was also approved effective April 1, 2016. Exhibit 3. Thus, based on the evidence presented, it is determined that the issues raised by the Petitioner's hearing request have been resolved; and no further issue remains with respect to MA as there was also no lapse in coverage; and MA coverage for both the Petitioner and her minor child is activated.

The Petitioner also sought a hearing regarding FIP cash assistance benefits because she was misled and told she could not qualify for FIP benefits, and thus, never applied. Notwithstanding, the Petitioner may have received incorrect information causing her to not apply for FIP benefits; this is not an issue which can be resolved by the undersigned as no action (decision) by the Department has been taken on an application or an existing case. BAM 600 provides:

Clients have the right to contest a department **decision** affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. This item includes procedures to meet the minimum requirements for a fair hearing. BAM 600 (October 1, 2015), p. 1.

MAHS may grant a hearing about any of the following:

- 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.
- BAM 600 p. 5.

As can be seen, in order for a hearing request to be granted, there must be a decision or action affecting an application or existing benefits. Therefore, there is no right to a hearing for Petitioner regarding alleged misinformation regarding a program benefit for which she did not apply. Therefore, the Petitioner's hearing request regarding FIP is hereby DISMISSED for lack of jurisdiction. The Petitioner may apply for FIP cash assistance at any time.

The Petitioner also sought a hearing regarding her FAP benefits. The hearing request does not indicate what the issue was with respect to the FAP benefits. At the hearing, the Department advised that the Petitioner did not have an active FAP case and that she had not received FAP benefits since December 2014. The Petitioner said that the

Department improperly either closed or denied her food benefits at that time (December 2014) and that an Administrative Law Judge also agreed that her FAP benefits should not be closed. BAM 600 also addresses when a request for hearing must be filed in order to be a timely hearing request; it provides:

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days; see Where to File a Hearing Request, found in this item. BAM 600, p. 6.

The Petitioner did not present a Hearing Decision regarding her FAP issued in 2014 so that it could be determined whether or not the Department had complied with the hearing decision. The Department was unable to locate any such decision within the case file or the electronic case file. This being the case, any closure of the FAP case occurring in December 2014 would have required that a hearing request be filed within 90 days of the closure date. Clearly filing a hearing request on February 26, 2016, regarding potential closure or denial of an FAP case in December 2014 is an untimely hearing request as it is more than 90 days past the alleged case closure complained of. At the hearing, the Petitioner was informed that she could request a hearing regarding a hearing decision which was not complied with by the Department at some future time if she could locate the hearing decision which she referenced and if she determined that it was not complied with by the Department. However, given the fact that no such hearing decision could be located and was not presented during the hearing, there can be no determination made on that issue.

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

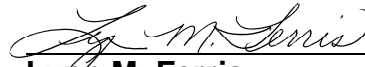
1. The Petitioner's hearing request dated February 26, 2016, regarding closure of her MA is hereby DISMISSED as the issue has been resolved; and there is nothing further to be determined by the undersigned Administrative Law Judge.
2. The Petitioner's hearing request dated February 26, 2016, regarding FIP benefits is hereby DISMISSED for lack of jurisdiction as the Petitioner has not applied for FIP; and there is no right to hearing regarding misinformation regarding benefits when no application has been made.
3. The Petitioner's hearing request dated February 26, 2016, regarding closure of her FAP case in December 2014 is hereby DISMISSED as it is untimely having been requested more than 90 days from the date of the alleged closure.

DECISION AND ORDER

Accordingly, the Petitioner's hearing request dated February 26, 2016, regarding MA, FIP cash assistance and FAP benefits are hereby **DISMISSED**.

IT IS SO ORDERED.

LMF/jaf



Lynn M. Ferris
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]

Petitioner

[REDACTED]

cc:

[REDACTED]