



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 27, 2016
MAHS Docket No.: 16-012080
Agency No.: [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 September 22, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist; [REDACTED] [REDACTED] Family Independence Manager; and [REDACTED] [REDACTED], Assistant Payment Supervisor.

ISSUE

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on July 27, 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 June 24, 2016, Petitioner previously requested a hearing protesting the Department's action with regard to her Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Exhibit A, p. 6.
2. On July 27, 2016, an administrative hearing was held in which Administrative Law Judge (ALJ) Robert Chavez issued a hearing decision on August 15, 2016 and ordered the Department to do the following: reinstate Petitioner's FAP and MA case retroactive to the date of negative action. Exhibit A, pp. 5-7. In the *Findings*

of Fact section of the decision, ALJ Chavez noted that the FAP and MA benefits were closed effective July 1, 2016. Exhibit A, pp. 5-6 (Reg. No. 16-008828).

3. On or about August 23, 2016, the Department redetermined Petitioner's FAP and MA eligibility and determined she was not eligible for FAP benefits effective July 1, 2016, but she was eligible for MA benefits, subject to a deductible. Exhibit B, pp. 5, 6, 9, and 14.
4. On August 23, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits closed effective July 1, 2016, ongoing because her gross income exceeded the limits. Exhibit B, pp. 9-13.
5. On August 23, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for MA coverage effective May 1, 2016 to May 31, 2016 (with a [REDACTED]), and June 1, 2016 to July 31, 2016 (with a [REDACTED] monthly deductible). Exhibit B, pp. 14-19.
6. The Department complied with ALJ Chavez's order to reinstate Petitioner's MA benefits effective July 1, 2016, but failed to comply with his order to reinstate Petitioner's FAP benefits effective July 1, 2016.
7. On August 31, 2016, Petitioner requested a hearing to protest the Department's failure to process ALJ Chavez's hearing decision. 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.

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.

Preliminary matters

First, Petitioner testified that she filed the hearing request to protest the Department's failure to process ALJ Chavez's hearing decision. Exhibit A, pp. 2-3. Therefore, the undersigned ALJ will determine if the Department properly complied with ALJ Chavez's hearing decision to reinstate Petitioner's FAP and MA benefits effective July 1, 2016. The undersigned will address each program separately below. It should be noted that Petitioner's hearing request disputed her case closures effective June 1, 2016; however, ALJ Chavez's hearing decision clearly stated that the benefits closed effective July 1, 2016. See Exhibit A, pp. 3 and 6. Thus, the undersigned ALJ will address the benefit period beginning July 1, 2016.

Second, there were two additional issues that arose during the hearing: (i) Petitioner was found eligible for MA benefits, subject to a deductible from May 2016 to July 2016 and the Department sent her a determination notice on August 23, 2016, notifying her of the deductible; and (ii) the Department closed Petitioner's MA benefits effective August 1, 2016. See Exhibit A, pp. 5 and 14-19. It appeared that Petitioner also disputed both of these additional actions; however, the undersigned lacks any jurisdiction to address these two issues. As stated above, the undersigned is only addressing whether the Department failed to process ALJ Chavez's hearing decision. Petitioner can file another hearing request to dispute the MA deductible and subsequent closure of her MA benefits effective August 1, 2016. BAM 600 (October 2015), pp. 1-6 (The client or Authorized Hearing Representative (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).

FAP benefits

First, Petitioner disputed the Department's failure to reinstate her FAP benefits effective July 1, 2016, per ALJ Chavez's hearing decision. Exhibit A, p. 7. In response, the Department claimed that it complied with ALJ Chavez's hearing decision and redetermined her FAP eligibility and determined that she was not eligible to receive FAP benefits effective July 1, 2016, due to excess income. Exhibit B, p. 1-2.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600, p. 41. Some hearing decisions require implementation by the local office. BAM 600, p. 41. The Department implements a D&O within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 41. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 42. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to the

Michigan Administrative Hearing System (MAHS) to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

Based on the foregoing information and evidence, the Department failed to comply with ALJ Chavez's hearing decision to reinstate Petitioner's FAP benefits retroactive to the date of negative action, which was July 1, 2016. ALJ Chavez's Decision and Order (D&O) clearly stated "Reinstate Petitioner's FAP and MA case retroactive to the date of negative action." Exhibit A, p. 7. The D&O does not state redetermine Petitioner's FAP eligibility. Instead, ALJ Chavez ordered the Department to reinstate Petitioner's FAP benefits, which meant that she should have received FAP benefits effective July 1, 2016. The undersigned ALJ finds that the Department failed to comply with ALJ Chavez's hearing decision. If the Department disagreed with ALJ Chavez's hearing decision, then it could have appealed the hearing decision by filing a request for rehearing or reconsideration within 30 days of the mailing of the hearing decision issued on August 15, 2016 or appeal the decision to circuit court. See BAM 600, pp. 38 and 43-46. However, there was no evidence that the Department appealed ALJ Chavez's hearing decision. Because the Department failed to reinstate Petitioner's FAP benefits effective July 1, 2016 and failed to appeal the hearing decision, the hearing decision issued on August 15, 2016 is binding and the Department must implement the D&O and reinstate her FAP benefits effective July 1, 2016, in accordance with Department policy. See BAM 600, pp. 41-42.

MA benefits

In regards to Petitioner's MA benefits, ALJ Chavez also ordered to Department to reinstate Petitioner's MA case retroactive to the date of negative action, which was July 1, 2016. See Exhibit A, pp. 5-7. On or about August 23, 2016, the Department redetermined Petitioner's MA eligibility and found that she was eligible for MA benefits, subject to a deductible. Exhibit B, pp. 5, 6, 9, and 14. On August 23, 2016, the Department sent Petitioner a determination notice notifying her that she was eligible for MA coverage effective May 1, 2016 to May 31, 2016 (with a [REDACTED] deductible), and June 1, 2016 to July 31, 2016 (with a [REDACTED] monthly deductible). Exhibit B, pp. 14-19. As such, the evidence established that the Department complied with ALJ Chavez's hearing decision to reinstate Petitioner's MA benefits retroactive to the date of negative action, which was July 1, 2016. See BAM 600, pp. 41-42.

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 did not act in accordance with Department policy when it failed to comply with ALJ Chavez's hearing decision to reinstate Petitioner's FAP benefits retroactive to the date of negative action; and (ii) the Department acted in accordance with Department when it complied with ALJ Chavez's hearing decision to reinstate Petitioner's MA benefits retroactive to the date of negative action (Reg. No. 16-008828).

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA benefits and **REVERSED IN PART** with respect to FAP benefits.

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. Implement and certify ALJ Chavez's hearing decision order to reinstate Petitioner's FAP case retroactive to the date of negative action (Reg. No. 16-008828), in accordance with Department policy.

EF/tm



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

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

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[REDACTED]
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[REDACTED]

CC: [REDACTED]
[REDACTED]