



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: February 14, 2017  
MAHS Docket No.: 17-000379  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

### **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 February 8, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED]

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) 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 on-going FAP and MA recipient.
2. On September 2, 2016, Petitioner submitted an online application (Exhibit A Pages 14-36) requesting FAP and MA, after her FAP and MA were terminated by the Department when she failed to timely submit a Redetermination that was due July 5, 2016 (Pages 2-8).
3. In her application she stated that she had unpaid medical expenses in August (Page 17).

4. She stated that she paid \$ [REDACTED] per month for “personal care services provided in home” for herself, and \$ [REDACTED] per month for those serves for her child (Page 31).
5. In a Notice of Case Action (Pages 37-38) and a Health Care Coverage Determination Notice (Pages 39-41), both dated September 28, 2016, Petitioner was approved for FAP and MA beginning September 2016.
6. On December 22, 2016, another Health Care Coverage Determination Notice (Exhibit B) was mailed, approving Petitioner for the Medicare Savings Program beginning January 1, 2017, and confirming she had been approved for “full coverage” from September 1, 2016 “ongoing”.
7. On December 29, 2016, a Notice of Case Action (Exhibit A Pages 42-43) was mailed, informing Petitioner that her FAP would be closing as of February 1, 2017, because she “did not give proof of information your local DHS office asked for.”
8. On January 10, 2017, the Department received Petitioner’s written and signed hearing request (Page 49) in which she said, “I am putting in writing my need for and (sic) appeal on the case of action for my Medicaid/Medicare Part B. As directed earlier to email it. I am now being directed that a signed letter is needed. Thank you for your help in this matter.”

### **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.

BAM 600 (10/1/16) is the manual governing hearings. That policy states at p. 2,

## HEARING REQUESTS

### All Programs

All clients have the right to request a hearing. The following people have authority to exercise this right by signing a hearing request:

- An adult member of the eligible group; **or**
- The client's authorized hearing representative (AHR).

Requests for a hearing must be made in writing and signed by one of the persons listed above. The request must bear a signature. Faxes or photocopies of signatures are acceptable. Michigan Administrative Hearings System (MAHS) will deny requests signed by unauthorized persons and requests without signatures.

**Exception:** For Food Assistance Program (FAP) only, a hearing request may be written or oral. If oral, complete the DHS-18, Request for Hearing, note on the DHS-18 the request was oral. Also note on the hearing summary that the request was oral.

At p. 6 the policy explains the time limitations for requesting a hearing:

### Deadlines for Requesting a Hearing

### All Programs

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.

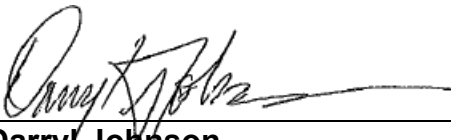
Petitioner explicitly stated in her hearing request that she wanted a hearing on her MA. She did not mention FAP. Therefore, even though the hearing summary identified FAP as an issue, no request was made for a hearing on FAP. Consequently, the issue of FAP is **DISMISSED** for lack of jurisdiction.

Regarding her MA, Petitioner did not submit a signed hearing request within 90 days of the September 28, 2016, Health Care Coverage Determination Notice. Therefore, she is not permitted to seek any relief from the action that was identified in that notice. The only issue that she is allowed to pursue is that identified in Exhibit B.

Petitioner's issue with respect to MA, according to both her testimony and that of the Department, is that in her September 2, 2016, application she was requesting retroactive Medicare Cost Share (MCS). Because she is requesting modification of the September 28, 2016, Health Care Coverage Determination Notice, and not the December 22, 2016, Health Care Coverage Determination Notice, her hearing request is late. Therefore, her appeal of the MA decision is **DISMISSED** for lack of jurisdiction.

**IT IS SO ORDERED.**

DJ/mc



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**Darryl Johnson**

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]