



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: March 13, 2017
MAHS Docket No.: 17-001573
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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, an in-person hearing was held on March 8, 2017, from the [REDACTED] County Department of Health and Human Services (Department) local office in [REDACTED], Michigan. Petitioner appeared and represented himself. [REDACTED] [REDACTED] Petitioner's Case Manager from Community Mental Health (CMH) appeared as a support person on behalf of Petitioner, but she did not render any testimony. [REDACTED] [REDACTED] Eligibility Specialist, appeared on behalf of the Department.

The Department offered the following exhibits which were marked and admitted into evidence: [Department's Exhibit 1: Hearing Summary (pages 1-2), Verification Checklist 12/19/16 (pages 3-4), Health Care Coverage Determination Notice 1/10/17 (pages 5-8), Notice of Case Action 1/10/17 (pages 9-12), Statements from Independent Bank received: 1/26/17 (pages 13-22), Bridges Case Comments-Summary (pages 23-24), Health Care Coverage Determination Notice 2/8/17 (pages 25-27), Notice of Case Action 1/31/17 (pages 28-31), Change Report 1/31/17 (pages 32-33), and Bridges Eligibility Summary (pages 34-35)].

Petitioner did not have any relevant exhibits that were admitted into evidence.

The record closed at the conclusion of the hearing.

ISSUES

- I. Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

- II. Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) or "Medicaid" and Medicare Savings Program (MSP) - Specified Low-Income Medicare Beneficiaries (SLMB) program 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 is disabled. [Hearing Testimony].
2. Petitioner was active for FAP benefits with a \$ [REDACTED] monthly allotment. [Department's Exhibit 1, p. 35].
3. Petitioner was active for MA benefits under the Freedom to Work (FTW) category. [Dept. Exh. 1, p. 35].
4. Petitioner applied for Medicare Savings Program (MSP) benefits on or about December 1, 2016, and the Department determined that Petitioner was eligible for MSP-SLMB. [Dept. Exh. 1, p. 34 & Hrg. Test.].
5. On December 19, 2016, the Department mailed Petitioner a Verification Checklist (DHS-3503) which requested checking account statements by December 29, 2016. [Dept. Exh. 1, pp. 3-4].
6. Petitioner did not call the Department and request assistance with obtaining the verifications and the Department did not receive Petitioner's checking account statements by December 29, 2016. [Hrg. Test.].
7. On January 10, 2017, the Department mailed Petitioner the following: (1) Health Care Coverage Determination Notice (DHS-1606), which closed his MA and MSP-SLMB cases, effective December 1, 2016, due to failure to return requested verifications [Dept. Exh. 1, pp. 5-8]; and (2) Notice of Case Action (DHS-1605) which closed his FAP case effective February 1, 2017, due to failure to provide requested verifications. [Dept. Exh. 1, pp. 9-12].
8. On January 26, 2017, the Department received Petitioner's checking account verifications. [Dept. Exh. 1, pp. 13-22].
9. Petitioner reapplied for FAP benefits. [Hrg. Test.].
10. The Department, while processing Petitioner's FAP application, discovered an error regarding the calculation and budgeting of Petitioner's income for purposes of MA and then reinstated his MA case. [Hrg. Test.].
11. Petitioner requested a hearing concerning FAP and MA benefits on January 27, 2017.

12. On January 31, 2017, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which approved Petitioner for FAP benefits in the amount of \$ [REDACTED] per month. [Dept. Exh. 1, pp. 28-31].
13. On February 9, 2017, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606), which approved Petitioner for full coverage MSP benefits back to November 1, 2016. [Dept. Exh. 1, pp. 25-27].

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).

Petitioner requested a hearing concerning his Food Assistance Program (FAP) and Medical Assistance (MA) or "Medicaid" program benefits. However, Petitioner, in his request for hearing, specifically indicates that he has a disability due to a head injury and that the Department has failed to effectively communicate his program benefits with him in an understandable manner.

BAM 105 (10-1-2016), p. 13, provides that for all programs the Department must "[e]nsure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all MDHHS employees." [Emphasis added].

For all programs, policy indicates that the local office must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the department. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105, p. 15. [Emphasis added].

At the hearing, Petitioner testified that the Department has failed to answer his questions and/or has failed to inform him about his program benefits. Petitioner states that due to his disability, he has difficulty understanding and that he often needs information repeated to him. Petitioner's testimony in this regard was both credible and sincere. The Department representative who attended the hearing did not dispute that Petitioner had a disability.

This Administrative Law Judge has reviewed the record in this case and does not find any evidence that the Department intentionally failed to communicate with Petitioner in a manner that he could understand. Rather, this Administrative Law Judge finds that the Department, prior to the hearing, was not fully aware of the nature of Petitioner's disability or that he requires special instructions concerning program benefits. However,

from this point forward, the Department is sufficiently placed on notice that Petitioner requires special instructions.

The undersigned believes that Petitioner may be a candidate for the appointment of an authorized representative¹ or other person who can assist him with communication and correspondence from the Department.

As indicated above, BAM 105 requires the Department ensure that Petitioner's rights and responsibilities are explained in understandable terms and that the local office must assist Petitioner with written correspondence from the Department in the event a client has a known disability. See BAM 105, pp. 13, 15. During the hearing, the Department representative provided assurances that Petitioner's case would be handled differently going forward and that his disability would be addressed in future communications.

The salient issue concerns Petitioner's request for hearing concerning his Food Assistance Program (FAP) and Medical Assistance (MA) or "Medicaid" benefits. Although Petitioner indicated that he wished to have a hearing concerning FAP and MA, he did not specifically identify what the Department did that adversely affected these programs. Rather, Petitioner repeatedly asserted that the Department does not listen to him or fails to explain things to him in an understandable manner. Because Petitioner implicated the FAP and MA programs in his request for hearing, this Administrative Law Judge will address each program below.

Food Assistance Program (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.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, (1-1-2017) p. 1. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130, p. 1. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 10.

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, policy requires the Department to offer to assist the individual in the gathering of such information. BAM 130, p. 1.

¹ BAM 110 (1-1-2017), p. 9.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The record shows that the Department, on December 19, 2016, mailed Petitioner a verification checklist which requested Petitioner's checking account information on or before December 29, 2016. There is no evidence on the record that Petitioner requested assistance with the verifications prior to the due date. The record does show; however, that Petitioner provided the Department with checking account statements on January 26, 2017, which was almost one month past the December 29, 2016, due date. Petitioner did not call the Department and request assistance with obtaining these verifications. [Dept. Exh. 1, pp. 23-24 & Hrg. Test.] Because Petitioner failed to return the requested verifications before the due date, the Department properly closed his FAP case. According to the Department representative who attended the hearing, Petitioner subsequently reapplied for FAP benefits and was later approved. This record shows that Petitioner received continuous FAP coverage in the amount of \$ [REDACTED] from January 1, 2016, through February 28, 2017. [Dept. Exh. 1, p. 35].

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP case due to failure to timely return requested verifications. Petitioner FAP case was opened after he reapplied and he had continuous coverage.

Medical Assistance (MA) or "Medicaid" & Medicare Savings Program

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.

The Freedom to Work (FTW) is an SSI-related Group 1 MA category. FTW is available to a client with disabilities age 16 through 64 who has earned income. BEM 174 (1-1-2017), p. 1. A client eligible for MA under FTW is not eligible for ALMB. BEM 174, p. 4.

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. BEM 165 (10-1-2016), p. 1, describes the three categories that make up the Medicare Savings Programs. The three categories are: (1) Qualified Medicare Beneficiaries (QMB), which is also called full-coverage QMB and just QMB. Program group type is QMB. (2) Specified Low-Income Medicare Beneficiaries (SLMB), which is also called limited-coverage QMB and SLMB. Program group type is SLMB; and (3) Q1 Additional Low-Income Medicare Beneficiaries (ALMB). This is also referred to as ALMB and as just Q1. Program group type is ALMB. See BEM 165, p. 1. SLMB pays Medicare Part B premiums. BEM 165, p. 2.

In the instant matter, the Department closed Petitioner's MA and MSP-SLMB cases due to failure to timely provide requested verifications concerning his checking account. [Dept. Exh. 1, pp. 5-8]. However, the Department contends that it discovered an error while processing his recent FAP application. The Department indicates that it subsequently reinstated Petitioner's MA and MSP-SLMB cases after it discovered an error in the way his income was budgeted. The Department corrected this error when it mailed Petitioner a Health Care Coverage Determination Notice on February 8, 2017. [Dept. Exh. 1, pp 25-27]. Accordingly, the Department representative credibly testified that a Help Desk Ticket was requested to correct the error and reinstate Petitioner's MA-SLMB cases back to November 1, 2016. The Department representative further stated that the "Buy-In Unit" made a determination concerning the amount that Petitioner should be reimbursed and that he was sent a Benefit Notice (DHS-176), which provided this information. Petitioner did not disagree with the Department representatives statements in this regard. However, Petitioner did state that he had a new issue concerning the amount that the Buy-In Unit determined that he should be reimbursed, but Petitioner understood that the new issue would require a new request for hearing.

As a result, there is no longer an active dispute for the Administrative Law Judge to decide concerning Petitioner's MA and MSP-SLMB benefits. At the time of the hearing, the Department has sufficiently shown that Petitioner's benefits are active and that he has been provided with retroactive benefits per policy.

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 acted in accordance with Department policy when it corrected Petitioner's MA and SLMB benefits and provided him retroactive benefits going back to November 1, 2016.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell
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]