



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: March 6, 2017
MAHS Docket No.: 17-001734
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 March 2, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly deny Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) application effective November 1, 2016?

Did the Department properly process Petitioner's application for 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. On November 16, 2016, a filing representative submitted an application for MA/MSP benefits on behalf of Petitioner, retroactive to August 2016. Exhibit A, p. 20 and Exhibit B, p. 5.
2. Petitioner did not apply for Food Assistance Program (FAP) benefits in the application dated November 16, 2016. Exhibit A, pp. 20-21 and Exhibit B, p. 5.
3. In the application, the filing representative provided the contact information for Petitioner's Authorized Representative (AR), who was a different person, as follows: [REDACTED]
[REDACTED]. Exhibit A, p. 21.

4. In the application, the filing representative also reported Petitioner's address to be [REDACTED]. Exhibit A, p. 21.
5. On November 16, 2016, the Department sent Petitioner and her AR, [REDACTED], a Health Care Coverage Supplemental Questionnaire (DHS-1004) (supplemental questionnaire) and it was due back by November 28, 2016. Exhibit A, pp. 8-13.
6. Petitioner and/or her AR failed to submit the supplemental questionnaire by the due date.
7. On January 3, 2017, the Department sent Petitioner and her AR a Health Care Coverage Determination Notice (determination notice) notifying her that her MA and MSP application was denied effective November 1, 2016 because she and/or her AR failed to complete the supplemental questionnaire. Exhibit A, pp. 14-19.
8. On January 30, 2017, Petitioner filed a hearing request, protesting the Department's action. 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 matter

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) the closure of her FAP benefits effective June 1, 2016; (ii) she alleged the Department failed to process her subsequent FAP application; and (iii) the denial of her MA/MSP application effective November 1, 2016

FAP benefits

In this case, Petitioner disputed the following two issues for her FAP benefits: (i) the closure of her FAP benefits effective June 1, 2016; and (ii) she alleged the Department failed to process her subsequent FAP application. The undersigned Administrative Law Judge (ALJ) addresses each issue below.

First, on August 12, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits closed effective June 1, 2016, based on her failure to provide verification of her checking account. Exhibit B, pp. 1-4. However, the undersigned ALJ lacks the jurisdiction to address the FAP closure because Petitioner's hearing request dated January 30, 2017, was not timely filed within ninety days of the Notice of Case Action dated August 12, 2016. Exhibit A, pp. 2-3 and Exhibit B, p. 1. As such, Petitioner's hearing request disputing the closure of her FAP benefits effective June 1, 2016 is DISMISSED for lack of jurisdiction. BAM 600 (October 2015), pp. 1-6.

Second, Petitioner subsequently indicated that she applied for FAP benefits and argued that the Department failed to process her application for FAP benefits. However, the undersigned ALJ reviewed the evidence record and found no indication that she applied for FAP benefits. The undersigned ALJ reviewed Petitioner's November 16, 2016 application and found that she only requested MA benefits. Exhibit A, pp. 20-21 and Exhibit B, p. 5. Moreover, the undersigned ALJ reviewed Petitioner's Electronic Case File (ECF) and found no recent application for FAP benefits. Exhibit B, pp. 6-7. As such, the undersigned ALJ concludes there is no hearable issue concerning Petitioner's FAP benefits. There is no evidence of any FAP application that the Department failed to process. Accordingly, Petitioner's hearing request disputing the failure to process her alleged FAP application is DISMISSED.

MA/MSP application

In the present case, Petitioner also disputed the denial of her MA/MSP application.

On November 16, 2016, a filing representative submitted an application for MA/MSP benefits on behalf of Petitioner, retroactive to August 2016. Exhibit A, p. 20 and Exhibit B, p. 5. In the application, the filing representative provided the contact information for Petitioner's AR, who was a different person. Exhibit A, p. 21. Subsequently, the Department sent the AR and Petitioner a supplemental questionnaire to complete to their addresses as reported in the application. Exhibit A, pp. 8-13 and 21. Petitioner and/or her AR failed to submit the supplemental questionnaire by the due date of

November 28, 2016. Exhibit A, pp. 8-13. As such, the Department denied the application and sent both the AR and Petitioner a determination notice informing them of the denial. Exhibit A, pp. 14-19.

In response, Petitioner testified that the filing representative provided the incorrect state and zip code for the AR contact information. Instead, the AR's address was in [REDACTED]. Exhibit A, p. 21. Petitioner testified that she first became aware of the incorrect address during her pre-hearing conference dated February 8, 2017, which was after the denial. Exhibit A, pp. 1 and 4.

In response to Petitioner's argument, the Department testified that this was a mistake of the filing representative. The Department argued that it sent the supplemental questionnaire and the determination notice to the proper address based on what the filing representative provided in the application. The undersigned ALJ agrees with the Department's argument.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). BAM 110 (January 2017), p. 9. When no one in the group is able to make application for program benefits, any group member capable of understanding AR responsibilities may designate the AR. BAM 110, p. 9. The AR assumes all the responsibilities of a client. BAM 110, p. 9. AR's must give their name, address, and title or relationship to the client. BAM 110, p. 9. To establish the client's eligibility, they must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM 110, p. 9.

In this case, [REDACTED], was designated as the AR and the filing representative provided all of his contact information in the application. Exhibit A, p. 21. The Department properly used the provided information in the application and mailed the AR all of the correspondence. It was the error of the filing representative, not of the Department's, of providing the improper address. Petitioner's testimony established that the Department first became aware of the improper address not until after the case denial.

Furthermore, policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (January 2017), p. 8. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 8. At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. BAM 130, p. 8. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.

- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

BAM 130, p. 8.

The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

Based on the foregoing information and evidence, the Department properly denied Petitioner's MA/MSP application effective November 1, 2016, in accordance with Department policy. As stated above, the undersigned ALJ concluded the Department sent the forms to the AR and Petitioner based on the addresses provided in the application. Moreover, policy does allow extensions to submit verification for MA benefits, however, there was no evidence of any request for an extension by Petitioner. Instead, the undersigned ALJ finds the Department established by a preponderance of evidence that Petitioner failed to submit the supplemental questionnaire by the due date. Because Petitioner/AR failed to submit the supplemental questionnaire by the due date, the Department acted in accordance with Department policy when it denied her MA/MSP application effective November 1, 2016. BAM 105, p. 9; BAM 130, pp. 1-8; and BEM 105 (October 2016), p. 3 (The DHS-1004, Health Care Coverage Supplemental Questionnaire, is used to gather additional information when the applicant indicates a disability on the DCH-1426). Petitioner can reapply for MA benefits.

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) Petitioner's hearing request disputing the closure of her FAP benefits effective June 1, 2016 is DISMISSED for lack of jurisdiction; (ii) Petitioner's hearing request disputing the failure to process an alleged FAP application is DISMISSED for lack of jurisdiction; and (iii) the Department acted in accordance with Department policy when it denied Petitioner's MA and MSP application effective November 1, 2016.

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

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]
[REDACTED]

[REDACTED]

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

CC: [REDACTED]
[REDACTED]