



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 10, 2017
MAHS Docket No.: 17-001915
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 9, 2017, from Detroit, Michigan. 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 close Petitioner's Food Assistance Program (FAP) benefits effective March 1, 2017?

Did the Department properly implement and certify a previous hearing decision regarding an administrative hearing held on December 1, 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 October 17, 2016, Petitioner previously requested a hearing protesting the Department's action with regard to her State Emergency Relief (SER) application. Exhibit A, p. 26.
2. On December 1, 2016, an administrative hearing was held in which the undersigned Administrative Law Judge (ALJ) issued a hearing decision on December 19, 2016 and ordered the Department to do the following: (i) initiate re-registration and reprocessing of Petitioner's SER application for relocation services

(rent to relocate and security deposit) and utility services (cooking gas and deposit/reconnect fees) dated September 22, 2016, in accordance with Department policy and as the circumstances existed at the time of application; (ii) issue supplements to Petitioner for any SER benefits for relocation services and utility services that she was eligible to receive but did not from the date of application; and (iii) notify Petitioner of the SER decision for relocation services and utility services (Reg. No. 16-015772). Exhibit A, pp. 25-32.

3. Subsequent to the hearing, the Department reprocessed Petitioner's eligibility for rent to relocate.
4. On January 26, 2017, the Department sent Petitioner an SER Decision Notice notifying her that her rent to relocate request was denied because her income/asset copayment, shortfall and contribution is equal to or greater than the amount needed to resolve the emergency. Exhibit A, p. 5.
5. The Department failed to reprocess Petitioner's SER eligibility for her security deposit and utility services (cooking gas and deposit/reconnect fees) request per the undersigned ALJ's hearing decision issued on December 19, 2016. Exhibit A, pp. 25-32.
6. Petitioner was also an ongoing recipient of FAP benefits.
7. On December 22, 2016, the Department sent Petitioner a Verification Checklist and a Verification of Assets form requesting proof of her checking and savings accounts and the forms were due back by January 3, 2017. Exhibit A, pp. 11-16 and 19-20.
8. On January 2, 2017, the Department alleged Petitioner submitted the Verification of Assets form, but failed to provide the signature page. Exhibit A, p. 1 (Hearing Summary).
9. On January 2, 2017, Petitioner alleged that she submitted, by fax, the Verification of Assets form, including the signature page, by the due date. Exhibit 1, pp. 1-2.
10. On January 26, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective March 1, 2017 because she failed to provide verification of checking and savings account. Exhibit A, pp. 9-10.
11. On February 10, 2017, Petitioner again submitted her Verification of Assets form, including the signature page, but Petitioner's FAP benefits had closed due to her failure to return the verifications in a timely manner. Exhibit A, pp. 1 and 13-16.

12. On February 10, 2017, Petitioner filed a hearing request, protesting her FAP case closure, her SER application, and her Medical Assistance (MA) benefits. Exhibit A, pp. 2-4.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Preliminary matter

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) the closure of her FAP benefits effective March 1, 2017; (ii) did the Department properly implement and certify a previous hearing decision regarding an administrative hearing held on December 1, 2016; and (iii) whether Petitioner's and her group member's MA benefits closed effective March 1, 2017. Exhibit A, pp. 2-4. The undersigned ALJ addresses Petitioner's concerns below:

FAP benefits

In the present case, the Department argued that Petitioner failed to timely provide verification of her assets (checking and savings account) by the January 3, 2017 due

date. Exhibit A, pp. 11-16 and 19-20. The Department testified that Petitioner submitted the Verification of Assets form on January 2, 2017, but failed to provide the signature page. Exhibit A, p. 1 (Hearing Summary).

In response, Petitioner argued that she submitted, by fax, the Verification of Assets form, including the signature page, by the due date. Exhibit 1, pp. 1-2. As part of the evidence record, Petitioner included the Verification of Assets form, which showed the Department received the first page of the form on January 2, 2017. Exhibit 1, p. 1. However, the second page, which is the signature page that the Department argued it did not receive, did not have any confirmation that it received the second page on January 2, 2017. Exhibit 1, p. 1.

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.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (January 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it.

Based on the foregoing information and evidence, the undersigned ALJ finds that the Department improperly closed Petitioner's FAP benefits effective March 1, 2017. The undersigned ALJ finds Petitioner's testimony credible that she submitted the Verification of Assets form on January 2, 2017, including the signature page, by the due date. Exhibit 1, pp. 1-2. In fact, Petitioner included her Verification of Assets form, which showed the Department received the first page of the form on January 2, 2017. Exhibit 1, p. 1. This proof that Petitioner provided bolstered her argument that she submitted the Verification of Assets form by the due date. As such, the Department is ordered to reinstate Petitioner's FAP benefits effective March 1, 2017 because Petitioner provided credible testimony and evidence that she submitted the requested asset verifications by the due date. See BAM 105, p. 9 and BAM 130, p. 7.

Moreover, even if the Department did not receive the signature page of the Verification of Assets form, policy states the Department sends a negative action notice when the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. The undersigned ALJ also finds that Petitioner made a reasonable effort to provide the Verification of Assets to the Department before the time period had elapsed. Because Petitioner made a reasonable effort to provide the request asset verifications before the time period had elapsed, the Department improperly closed her FAP benefits effective March 1, 2017, in accordance with Department policy. See BAM 130, p. 7.

SER application

In the present case, Petitioner requested a hearing to protest the denial of her rent to relocate dated January 26, 2017. However, the undersigned ALJ did not go into the specifics of this denial because it was discovered that the Department did not even process the SER application properly. The reason the Department processed the SER application for rent to relocate was because there was a previous hearing in which the undersigned ALJ ordered the Department to reprocess her SER application. However, the undersigned ALJ also ordered the Department to reprocess Petitioner's SER eligibility for her security deposit and utility services (cooking gas and deposit/reconnect fees). Exhibit A, pp. 25-35. The Department only partially complied with the undersigned ALJ's order when it only processed the rent to relocate of the SER request.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (October 2016), 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. 43. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to Michigan Administrative Hearing System (MAHS) to certify implementation and place a copy of the form in the case file. BAM 600, p. 43.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to properly implement and certify the hearing decision sent on December 19, 2016 (Reg. No. 16-015722). Yes, the Department partial implemented the hearing decision when it reprocessed the rent to relocate request. However, the Department ultimately failed to fully implement the undersigned ALJ's order regarding reprocessing of Petitioner's SER application for relocation services (rent to relocate and security deposit) and utility services (cooking gas and deposit/reconnect fees) dated September 22, 2016. Exhibit A, p. 30. Because the Department failed to fully implement the undersigned ALJ's hearing decision and failed to appeal the hearing decision, the hearing decision issued on December 19, 2016 is binding and the Department must implement the hearing decision in accordance with Department policy. See BAM 600, pp. 41-43. This also means that the Department must again reprocess the SER application for rent to relocate as well.

MA coverage

Petitioner also filed a hearing request in which she indicated that she received notice that her and her group member's MA benefits would close effective March 1, 2017. Exhibit A, p. 2. However, the Department presented credible evidence and testimony showing that the group's MA benefits are approved effective March 1, 2017. Exhibit B, pp. 1-4.

Based on the foregoing information and evidence, the undersigned ALJ concludes that Petitioner's MA hearing issue is **DISMISSED**. There is no hearable issue concerning Petitioner's or her group member's MA benefits because the evidence and testimony established that there MA benefits were approved effective March 1, 2017. Exhibit B, pp. 1-4.

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 improperly closed Petitioner's FAP benefits effective March 1, 2017; (ii) the Department did not act in accordance with Department policy when it failed to fully and properly implement the hearing decision issued on December 19, 2016 (Reg. No. 16-015772); and (iii) Petitioner's MA hearing request is **DISMISSED**.

Accordingly, the Department's FAP and SER decision is **REVERSED**.

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 the hearing decision mailed on December 19, 2016, from the previous administrative hearing (Reg. No. 16-015772), in accordance with Department policy.
2. Reinstate Petitioner's FAP case as of March 1, 2017;
3. Redetermine Petitioner's FAP eligibility effective March 1, 2017;
4. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from March 1, 2017; and
5. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's MA hearing request is **DISMISSED**.

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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CC:

[REDACTED]
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