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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 21, 2017
MAHS Docket No.: ██████████ 17-009050
Agency No.: ██████████
██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 ██████████, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, hearing facilitator, and ██████████, specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

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 a member of a household that included ██████████ children, ██████████ grandchildren, and an adopted child.
2. Petitioner was an ongoing FAP and MA recipient.
3. On ██████████, MDHHS issued a written notice of MA termination for 2 household members due to verbal request of termination.

4. Petitioner did not verbally request a termination of MA benefits for any household members.
5. On [REDACTED] MDHHS terminated Petitioner's FAP eligibility, effective [REDACTED], due to Petitioner failing to verify employment income and/or Petitioner failing to comply with child support.
6. MDHHS failed to establish that Petitioner failed to verify income.
7. MDHHS failed to establish that Petitioner was non-compliant in obtaining child support.
8. On [REDACTED] Petitioner requested a hearing to dispute terminations of FAP eligibility and MA eligibility for unspecified household members.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FAP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4). The notice informed Petitioner of a termination of FAP eligibility, effective [REDACTED]. The notice stated termination was based, in part, on Petitioner's alleged failure to verify employment income.

For... FAP, [MDHHS is to] verify [employment] income that decreases or stops. BEM 501 (July 2016), p. 9. [For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2016), p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date.... *Id.*, p. 3. [MDHHS is to] send 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. *Id.*

The MDHHS case summary ignored the termination based on Petitioner's alleged failure to verify employment. MDHHS presented no evidence that a Verification Checklist requested proof of income from Petitioner. Given presented evidence, it is found that MDHHS failed to justify a termination of Petitioner's FAP eligibility based on Petitioner not verifying income.

The FAP benefit notice of termination included a second basis for closure. The MDHHS case summary and notice of termination both alleged Petitioner's FAP eligibility ended due to Petitioner's failure to comply with child support.

[For FAP benefits,] the custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (April 2015), p. 1. Cooperation is a condition of eligibility. *Id.*, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* It includes all of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

Id.

Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255 (January 2017), p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

MDHHS provided no documentation to support the child support disqualification. MDHHS did not present any witnesses (e.g. child support specialists) to justify the imposition of a child support disqualification.

Given presented evidence, it is found that MDHHS improperly imposed a child support disqualification against Petitioner. MDHHS will be ordered to reinstate Petitioner's FAP eligibility without factoring the child support disqualification.

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies

are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing, in part, to dispute a termination of MA benefits. Petitioner testified that MDHHS terminated some or all of her family's MA eligibility. During the hearing, Petitioner was asked if she possessed the notice of MA termination. Petitioner responded that the FAP notice of termination included information of a MA closure; in fact, the FAP notice contained no such information about MA termination.

MDHHS did not address Petitioner's MA dispute within their hearing summary. During the hearing, MDHHS was asked to find a notice of termination concerning MA eligibility. MDHHS testimony indicated a notice dated [REDACTED], informed Petitioner of a MA termination for 2 of Petitioner's children/grandchildren, effective [REDACTED]. MDHHS stated that the reason for termination was a verbal withdrawal.

It was not disputed that Petitioner did not verbally withdraw MA eligibility. MDHHS testimony clarified that verbal withdrawal is often used as a termination reason when MDHHS attempts to consolidate members of a MA group. MDHHS testimony also indicated it appeared that the group members whose MA ended were not added to a different case number.

Presented evidence was less than ideal. Given presented evidence, it can be concluded at least 2 of Petitioner's children/grandchildren improperly had their MA eligibility stopped. MDHHS testimony indicated that Petitioner's case had multiple case numbers and that it was difficult to find which of Petitioner's household members experienced a MA benefit termination.

As insufficient evidence was presented from MDHHS concerning Petitioner's entire family, MDHHS will be ordered to reinstate MA eligibility for any of Petitioner's household members that had MA eligibility stopped in [REDACTED] or later.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP and MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP eligibility, effective [REDACTED] subject to the following findings:
 - a. MDHHS failed to establish Petitioner was non-compliant with obtaining child support;
 - b. MDHHS failed to establish that Petitioner failed to verify income; and
- (2) Reinstate Petitioner's and/or her children or grandchildren's MA eligibility, effective [REDACTED], for those household members whose MA eligibility ended [REDACTED] or later.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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])

Department Representative

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]