



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 6, 2017
MAHS Docket No.: 17-009860
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 5, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], Hearing Facilitator.

ISSUE

The issue is whether Petitioner timely requested a dispute concerning Food Assistance Program (FAP) 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 ongoing FAP recipient.
2. On an unspecified date in [REDACTED], MDHHS sent Petitioner written notice of a termination of FAP benefits, effective [REDACTED].
3. On an unspecified date in [REDACTED], Petitioner applied for MA benefits.
4. On [REDACTED] Petitioner requested a hearing to dispute a MDHHS failure to process his MA application and to dispute a termination of FAP benefits, effective [REDACTED].

5. As of [REDACTED], MDHHS had not processed Petitioner's application for MA benefits.
6. During the hearing, Petitioner withdrew his dispute concerning MA benefits.

CONCLUSIONS OF LAW

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).

Petitioner's hearing request, in part, disputed MA eligibility. The hearing request did not identify the specific action being disputed. Petitioner testified he requested a hearing concerning MA benefits because MDHHS failed to process an application he filed in [REDACTED] which requested MA benefits.

Petitioner testified that within the two weeks before the hearing date, MDHHS finally had approved him for Medicaid subject to a deductible. Petitioner further testified that MDHHS' approval resolved his basis for requesting a hearing. Petitioner's testimony was a functional withdrawal of his hearing request. Petitioner's hearing request will be dismissed, concerning MA benefits, due to his withdrawal.

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 FAP eligibility. Petitioner's hearing request was not insightful concerning the specific action taken by MDHHS being disputed. Petitioner testified that he disputed a termination of FAP benefits, effective [REDACTED].

MDHHS did not present a corresponding Notice of Case Action concerning the termination of FAP benefits. Petitioner testimony conceded that MDHHS issued a written notice to him on an unspecified date in [REDACTED].

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2016), p. 6. The request must be received in the local office within the 90 days. *Id.*

Petitioner submitted a hearing request to MDHHS on [REDACTED]. Giving Petitioner the most beneficial date possible for issuance of written notice ([REDACTED]) still results in a hearing request submitted 148 days after MDHHS issued written notice.

It was not disputed that Petitioner was disqualified from receiving FAP benefits beginning [REDACTED], due to an intentional program violation (IPV). It was also not disputed that the IPV was imposed by an administrative hearing decision dated [REDACTED] (see Exhibit A, p. 1).


Petitioner contended that the administrative law judge who found that Petitioner committed fraud failed to consider Petitioner's evidence during the corresponding hearing. Petitioner testified he tried to appeal the administrative decision but was unable to procure assistance from a legal aid agency. Petitioner further testified that he has since obtained evidence which rebuts evidence presented against him in the hearing related to the IPV.

Petitioner's proper recourse to dispute the previously held hearing was to timely appeal the decision. Petitioner's attempt to challenge the previous decision is inappropriate not only in Petitioner's failure to follow appellate procedure, but also by Petitioner's untimely hearing request. Petitioner's hearing request concerning FAP eligibility will be dismissed due to untimeliness.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute of MA eligibility concerning an MA application from [REDACTED]. It is further found that Petitioner failed to timely dispute a termination of FAP benefits from [REDACTED]. Petitioner's hearing request is **DISMISSED**.

CG/jaf



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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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