



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 3, 2017
MAHS Docket No.: 17-011400
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; 42 CFR 438.400 to 438.424; 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 28, 2017, from [REDACTED] Michigan. Petitioner was present for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly provide Petitioner's son, Child A, with Medical Assistance (MA) coverage he is eligible to receive?

Did the Department fail to process Petitioner's alleged Family Independence Program (FIP) application?

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application for [REDACTED], to [REDACTED]?

Did the Department properly determine Petitioner's FAP group composition effective [REDACTED]?

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 an ongoing recipient of MA benefits under his Supplemental Security Income (SSI) case.
2. Petitioner's son, Child A, is also an ongoing recipient of MA benefits. [Exhibit B, pp. 16-17.]
3. In [REDACTED], Petitioner's son, Child A (date of birth: [REDACTED]), was removed from his mother's home by Child Protective Services (CPS) and placed with Petitioner. [Exhibit A, p. 12.]
4. In [REDACTED], Petitioner received \$[REDACTED] FAP benefits under the Michigan Combined Application Project (MiCAP).
5. From [REDACTED], to [REDACTED], Child A was a member of his mother's FAP group.
6. On [REDACTED], Petitioner applied for FAP benefits and he listed himself and Child A as members of the household. [Exhibit B, pp. 10-15.]
7. On [REDACTED], Petitioner also applied for MA benefits for himself and not Child A. [Exhibit B, pp. 1-9.]
8. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination notifying him that his MA application was denied because he was already active for MA under his SSI case. [Testimony by Hearings Facilitator.]
9. Petitioner has not recently applied for Cash Assistance (i.e., FIP benefits). [Exhibit B, pp. 10-15.]
10. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him of the following: (i) his FAP application was denied from [REDACTED], to [REDACTED], because Child A and him received FAP benefits in another case; and (ii) Petitioner was approved for FAP benefits for a group size of one effective [REDACTED], and Child A was not eligible for this program because he received benefits in another case. [Exhibit A, pp. 9-11.]
11. On [REDACTED], Petitioner filed an unsigned hearing request, disputing the MA, FIP, and FAP program benefits. [Exhibit A, pp. 17-18.]
12. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits increased to a group size two (Petitioner and Child A) effective [REDACTED]. [Exhibit A, pp. 14-16.]
13. On [REDACTED], Petitioner filed a signed hearing request, disputing the MA, FIP, and FAP benefits. [Exhibit A, pp. 3-5.]

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 requests and testimony, he is disputing the following: (i) did the Department properly provide Child A with MA coverage he is eligible to receive; (ii) did the Department fail to process Petitioner's FIP application; (iii) did the Department properly deny Petitioner's FAP application for [REDACTED] to [REDACTED]; and (iv) did the Department properly determine Petitioner's FAP group composition effective [REDACTED]. The undersigned will address each issue separately below:

MA coverage

In this case, Petitioner filed hearing requests in which he disputed his son's, Child A, MA benefits. [Exhibit A, pp. 3-4 and 17-18.] However, the undersigned had difficulty determining what specific MA issues Petitioner was disputing concerning Child A. He provided testimony that he could not find Child A's insurance card and appeared to inquire on how to resolve this matter. Furthermore, Petitioner applied for MA benefits

for himself on July 17, 2017, but he was already an ongoing recipient of MA benefits at the time of the application. [Exhibit B, pp. 1-9.] Ultimately, the undersigned discovered that Child A has active MA coverage. [Exhibit B, pp. 16-17].

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

Additionally, the Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service

BAM 600 (April 2017), p. 5.

Based on the foregoing information and evidence, the undersigned lacks the jurisdiction to address Child A's MA benefits because there is no adverse action. Here, there has been no reduction, suspension, or adjustment to Child A's MA benefits and instead, the evidence established Child A has ongoing MA coverage. Furthermore, Petitioner failed to submit any MA application for Child A; thus, an eligibility determination for Child A's MA benefits never took place. See BAM 110 (January 2017), pp. 1-27 and BAM 115 (July 2017), pp. 1-37. Therefore, given that the Department has taken no adverse action with regard to Child A's MA benefits, there is no appealable issue to address. As such, Petitioner's MA hearing request concerning Child A is DISMISSED for lack of jurisdiction.

FIP benefits

In this case, Petitioner filed hearing requests in which he disputed the FIP benefits. [Exhibit A, pp. 3-4 and 17-18.]. However, the undersigned determined there is no appealable issue, because the Department has taken no adverse action with regard to the FIP program. Petitioner's testimony appeared to indicate that he filed the hearing request claiming the Department failed to process his FIP application. However, the

Department provided evidence showing that Petitioner did not recently apply for FIP benefits. [Exhibit B, p. 18]. In fact, the Department presented evidence showing the last time he applied for Cash Assistance was on [REDACTED]. [Exhibit A, p. 18.] Moreover, Petitioner's FAP application dated [REDACTED], shows that he only requested FAP benefits and he did not request Cash Assistance. [Exhibit B, pp. 10-15.] Petitioner failed to provide any evidence showing that he applied for FIP benefits. Therefore, because Petitioner failed to submit an application for FIP benefits, and no adverse action took place, Petitioner does not have the right to a hearing to dispute the FIP benefits. See BAM 110, pp. 1-27; BAM 115, pp. 1-37; and BAM 600, p. 5. As such, Petitioner's FIP hearing request is DISMISSED for lack of jurisdiction.

FAP benefits from July 17, 2017 to July 31, 2017

On [REDACTED], Petitioner applied for FAP benefits and he listed himself and Child A as members of the household. [Exhibit B, pp. 10-15.] However, the Department denied Petitioner's FAP application from [REDACTED] to [REDACTED] because Child A and he received FAP benefits in other cases. [Exhibit A, pp. 9-10.] The undersigned agrees that the Department properly denied his application during this time period.

First, Petitioner received \$ [REDACTED] in FAP benefits under the MiCAP program for [REDACTED]. Policy states that an individual cannot receive both MiCAP and FAP in the same month. BEM 618 (January 2016), p. 3. Therefore, the Department properly determined that Petitioner was not eligible for FAP benefits for [REDACTED], to [REDACTED].

Second, Child A also received FAP benefits for the month of [REDACTED], because he was under his mother's FAP case. A person cannot be a member of more than one FAP Certified Group (CG) in any month. BEM 222 (October 2016), p. 3. A person cannot receive FAP in more than one State for any month. BEM 222, p. 3. Based on this policy, the Department properly determined that Child A was not eligible for FAP benefits for [REDACTED] to [REDACTED], because he was a member of his mother's FAP group.

Accordingly, the Department acted in accordance with Department policy when it denied Petitioner's FAP benefits for [REDACTED], to [REDACTED], because Child A and Petitioner received FAP benefits in other cases.

FAP group composition effective August 2017

On [REDACTED], Petitioner testified that Child A was removed from his mother's household by CPS and placed with him. Because Child A was placed with Petitioner, he applied for FAP benefits and included both himself and Child A as members of the household. Petitioner argued that the Department failed to add Child A to his FAP group beginning on or about [REDACTED]. It should be noted that Child A was eventually added to Petitioner's FAP group beginning [REDACTED]. [Exhibit A, pp. 14-16.]

The Department will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non financial and financial eligibility of everyone in the group. BEM 212 (January 2017), p. 1.

Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation

BEM 212, p. 1.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212, p. 1.

Additionally, a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212, p. 9. In determining the potential FAP benefit increase, the Department assumes the Family Independence Program (FIP)/State Disability Assistance (SDA) supplement and new grant amount have been authorized. BEM 212, p. 9. When a member leaves a group to apply on his own or to join another group, a member delete should be completed in the month the local office learns of the application/member add. BEM 212, p. 9. Initiate recoupment if necessary. BEM 212, p. 9. If the member delete decreases benefits, adequate notice is allowed. BEM 212, p. 9.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it improperly determined Petitioner's FAP group composition effective [REDACTED]. As stated above, policy states that a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212, p. 9. In this case, Petitioner reported in this application dated [REDACTED], that his group size was two (Petitioner and Child A). [Exhibit B, pp. 10-15] In fact, the Department provided e-mail correspondence confirming that Child A resided with Petitioner in [REDACTED]. [Exhibit A, p. 12.] As such, per policy, the Department would have processed the member add and it would have taken effect the following month, which would be [REDACTED]. See BEM 212, p. 9. Thus, the evidence established that Petitioner's FAP group composition was two effective [REDACTED]. And therefore, the Department improperly stated in the Notice of Case Action dated [REDACTED], that his group composition was only one effective [REDACTED]. [Exhibit A, pp. 9-11.] As such, the Department is ordered to apply Petitioner's FAP group composition as two effective [REDACTED], and recalculate his FAP benefits effective [REDACTED], in accordance with Department policy.

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 acted in accordance with Department policy when it denied Petitioner's FAP benefits for [REDACTED], to [REDACTED]; and (ii) the Department did not act in accordance with Department policy when it improperly determined Petitioner's FAP group composition effective [REDACTED].


Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of FAP benefits for [REDACTED] and **REVERSED IN PART** with respect to group composition and calculation of FAP benefits effective [REDACTED].

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. Apply Petitioner's FAP group composition to be two (including Petitioner and Child A) effective [REDACTED];
2. Recalculate Petitioner's FAP benefits effective [REDACTED];
3. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision

IT IS FURTHER ORDERED that Petitioner's **MA** and **FIP** hearing requests are **DISMISSED** for lack of jurisdiction.

EF/bb



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]

Petitioner

[REDACTED]