



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 8, 2017
MAHS Docket No.: 17-009802 & 17-010218
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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, an in-person hearing was held on September 6, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator and Chanel Bristol, Case Worker/Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) program cases?

Did the Department properly process Petitioner's Family Independence Program (FIP) 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 not an ongoing recipient of FIP benefits and did not submit an application for FIP benefits.
2. Petitioner was an ongoing recipient of FAP and MA benefits.
3. At times relevant to the case closures, Petitioner had a mailing address of [REDACTED].

4. In or around [REDACTED] 2017 Petitioner applied for State Emergency Relief (SER) assistance. While processing Petitioner's SER application, the Department inadvertently changed Petitioner's mailing address in the Bridges system to [REDACTED].
5. The Department began sending Petitioner correspondence regarding his cases to [REDACTED] which were returned to the Department by the Post Office as undeliverable.
6. On May 12, 2017, the Department sent Petitioner a Verification Checklist (VCL) to the address of [REDACTED], instructing him to provide proof of his current address or telephone number where he could be reached. He was further instructed to provide proof of his earned and unearned income for the last 30 days. The due date for the verifications was May 22, 2017. (Exhibit B; Exhibit E)
7. Petitioner did not receive the VCL and thus did not respond to the Department's request for verification.
8. On May 30, 2017, the Department sent Petitioner a Notice of Case Action advising him that effective July 1, 2017 his FAP case would be closed on the basis that requested verifications were not returned. (Exhibit A, pp. 6-9)
9. On May 30, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective July 1, 2017, his MA case would be closed on the basis that verification of income was not returned. (Exhibit D)
10. The MA cases for Petitioner's children remained open and they continued to be approved for MA benefits with no lapse in coverage. (Exhibit C)
11. On July 13, 2017, Petitioner requested a hearing disputing the closure of his FAP and MA cases. The hearing request was assigned MAHS Docket No. 17-009802 and scheduled to be held on September 6, 2017 at 2:00 p.m. (Exhibit A, pp. 2-3)
12. On [REDACTED], 2017, Petitioner reapplied for FAP and MA benefits.
13. On July 17, 2017, the Department sent Petitioner a Notice of Case Action advising him that he was approved for FAP benefits in the prorated amount of \$314 for the period of [REDACTED], 2017 to July 31, 2017. (Exhibit A, pp. 11-14)
14. Petitioner was approved for MA benefits under the Low-Income Family (LIF) for Parents/Caretaker Relatives (PCR) category with no lapse in his coverage. (Exhibit C)
15. On July 27, 2017 after the pre-hearing conference regarding his July 13, 2017 hearing request, Petitioner submitted a second hearing request again disputing the closure of his FAP case. Petitioner also indicated he disputed the Department's actions regarding his Family Independence Program (FIP) case, however, it was later established that Petitioner checked the FIP box by mistake. The hearing

request was assigned MAHS Docket No. 17-010218 and scheduled to be held on September 6, 2017 at 2:30 p.m.

16. Although Petitioner's hearing requests were not consolidated for hearing purposes, because both requests involve the same programs at issue and are related, one Hearing Decision will be issued addressing both hearing requests.

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).

FIP

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.

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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2016), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. MAHS may grant a hearing about a 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 or delay of any action beyond the standards of promptness. BAM 600, pp.4-5.

In the present case, Petitioner requested a hearing on July 27, 2017 and checked the box indicating he disputed the Department's actions with respect to the FIP. At the hearing, Petitioner confirmed that prior to his hearing request, he had neither submitted an application for FIP benefits nor had he been an active and ongoing recipient of FIP benefits with the Department. Petitioner stated that he checked the FIP box on the hearing request in error. Thus, Petitioner failed to establish that the Department had taken any negative action with respect to FIP prior to the hearing request. Therefore, because the Department had neither determined Petitioner's eligibility for FIP benefits nor had the Department taken any negative action with respect to Petitioner's FIP benefits prior to his hearing request, Petitioner's hearing request with respect to FIP is **DISMISSED** for lack of jurisdiction.

FAP/MA

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, pp. 3-4.

For FAP cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-8. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, pp. 7-8.

For MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-9. If the client cannot provide the verification despite

a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

In this case, the Department testified that because correspondence sent to Petitioner had been returned by the Post Office as undeliverable, it sent Petitioner a VCL instructing him to submit proof of his current address and income by May 22, 2017. The Department stated that because requested verifications were not returned, it initiated the closure of Petitioner's FAP and MA cases effective July 1, 2017 and sent him notice of the case closures. At the hearing, Petitioner testified that he did not receive the VCL which is why he did not submit requested verifications. Upon review, it was established that the VCL, Notice of Case Action and Health Care Coverage Determination Notice were sent to Petitioner at an incorrect mailing address. Due to an unknown error, Petitioner's mailing address was changed in the Department's computer system in March 2017. Thus, because the VCL was not sent to Petitioner at his correct mailing address, the closure of Petitioner's FAP and MA cases effective July 1, 2017 due to a failure to provide verifications was improper, as he established that he did not receive the VCL.

During the hearing, the Department testified and Petitioner confirmed that he reapplied for FAP and MA benefits on [REDACTED], 2017 and was subsequently approved. The Department presented an eligibility summary showing that Petitioner was approved for MA benefits under the PCR category for July 1, 2017, ongoing and that there had been no lapse in his coverage. (Exhibit C). Thus, although the Department did not properly close Petitioner's MA case effective July 1, 2017, because Petitioner was subsequently approved for MA coverage for the period of July 1, 2017 ongoing with no lapse, the Department's error proved to be harmless. As such, Petitioner's hearing request as it relates to MA is **DISMISSED** for lack of jurisdiction.

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 the Department did not act in accordance with Department policy when it closed Petitioner's FAP case effective July 1, 2017.

Petitioner raised additional concerns at the hearing regarding a FAP case closure effective August 1, 2017. The evidence established however, that Petitioner was notified of the case closure with a Notice of Case Action dated August 16, 2017, after the dates in which he filed hearing requests (July 13, 2017 and July 27, 2017). Petitioner was informed that because the case closure effective August 1, 2017 is considered to be a subsequent negative action taken after the requests for hearing were filed, the undersigned Administrative Law Judge did not have the jurisdiction to address the subsequent case closure and Petitioner was required to submit a new request for hearing, as clients have 90 days from the date of the written notice of case action to request a hearing. See BAM 600.

DECISION AND ORDER

Accordingly, Petitioner's hearing requests regarding the FIP and MA programs are DISMISSED and the Department's FAP 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. Reinstate Petitioner's FAP case effective July 1, 2017;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from July 1, 2017, ongoing, for any FAP benefits he was eligible to receive but did not, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-17-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

