



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 9, 2018
MAHS Docket No.: 17-015433
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael Crews

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 January 4, 2018, from Detroit, Michigan. The Petitioner appeared and was represented by her attorneys, [REDACTED] and [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker and Hearing Facilitator.

ISSUES

Did the Petitioner timely request a hearing regarding the closure of her Food Assistance Program (FAP) case?

Did the Department properly close Petitioner's FAP benefits effective April 1, 2017?

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 recipient of FAP benefits.
2. The Department mailed a redetermination dated February 4, 2017 to Petitioner regarding her FAP benefits, notice of redetermination telephone interview on March 1, 2017, and a FAP redetermination filing record. (Exhibit A, pp. 2, 10, and 24).

3. The FAP redetermination filing record informed Petitioner that her FAP benefits were scheduled to end on March 31, 2017 and that failure to return the completed redetermination form, required proofs, and participate in the phone interview could result in her benefits being reduced or canceled (Exhibit A, p. 10).
4. On March 1, 2017, the Department mailed a Notice of Missed Interview to Petitioner. Petitioner was advised of that she missed the scheduled telephone interview and that she needed to reschedule the interview before March 31, 2017 or the redetermination would be denied (Exhibit A, p. 23).
5. The Department did not receive the redetermination form and the required proofs and, as a result, Petitioner's FAP benefits were terminated effective April 1, 2017 through September 30, 2017 (Exhibit A, p. 21).
6. Petitioner's Medical Assistance (MA) benefits were terminated effective May 1, 2016 through June 30, 2017 and she was not deemed eligible for the Medicare Savings Program (MSP)-(Qualified Medicare Beneficiary (QMB) category) effective May 1, 2016 through September 30, 2017 for failure to return a redetermination dated March 14, 2016 (Exhibit A, p. 20).
7. On October 17, 2017, Petitioner reapplied for FAP, MA, and MCS benefits.
8. The Department mailed a Notice of Case Action dated October 23, 2017 and informed Petitioner that her FAP benefits were approved effective October 17, 2017 (Exhibit A, p. 29) and a Health Care Coverage Determination Notice dated November 30, 2017, which informed Petitioner that full coverage MA was approved effective October 1, 2017 (Exhibit A, p. 25). However, Petitioner was not approved for MSP for the month of October 2017.
9. Petitioner's MA benefits were approved and applied retroactively beginning July 2017.
10. The Petitioner submitted a hearing request and indicated that she disputed the Department's action as to closure of her FAP case based on the March 1, 2017 redetermination (Exhibit A, p. 1).

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.

Hearing Request for FAP closure

In this case, the Petitioner filed a hearing request on November 22, 2017. In that correspondence, Petitioner stated, "I am requesting an appeal regarding my filing an application and sent proofs on 3/1/2017..." (Exhibit A, p. 1). Petitioner's FAP benefits were closed as the Department alleged that she failed to return the February 24, 2017 redetermination, which also advised Petitioner of a redetermination telephone interview for March 1, 2017 regarding her eligibility for continued FAP benefits (Exhibit A, p. 2).

Petitioner's FAP case closed effective April 1, 2017 due to her failure to return a completed redetermination. Therefore, it is presumed that Petitioner's hearing request was submitted in order to address the closure of her FAP case effective April 1, 2017.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. This item includes procedures to meet the minimum requirements for a fair hearing. BAM 600 (April 2017), p. 1. The client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, p. 6.

An adult member of the eligible group; **or** the client's authorized hearing representative (AHR) have authority request a hearing by signing a hearing request. Requests for a hearing must be made in writing and signed by one of the persons listed above. The request must bear a signature. Faxes or photocopies of signatures are acceptable. BAM 600, p. 2. For FAP only, a hearing request may be written or oral. If oral, the DHS-18 Request for Hearing is to be completed and it should be noted on the hearing summary that the client's request was oral. BAM 600, p. 2. Dissatisfaction with a Department action may be expressed, orally or in writing, without specifically requesting a hearing. The Department is to determine whether there is actually a desire to request a hearing. If so, the Department is to ensure that the request is put in writing. BAM 600, p. 2.

Petitioner asserts that she completed and signed the redetermination on March 1, 2017 and sent the redetermination via mail that was addressed to the Department. (Exhibit B, pp. 2-9).

When Petitioner did not receive a call for her phone interview on March 1, 2017, she testified that she attempted to contact her caseworker, but she could not reach her. Per the Department case comments, the caseworker indicated that, on March 1, 2017, she called the number on the case to inform Petitioner that the redetermination paperwork could not be returned at that time, but the caseworker could not leave a message. On March 15, 2017, the caseworker indicated that she left a message for Petitioner to

inform her that the redetermination paperwork had not been received and that a new interview could not be set up until it was returned (Exhibit A, p. 12).

On April 5, 2017, Petitioner received correspondence from the Social Security Administration Office in Wilkes-Barre, PA and was informed that the office had received her application for the Medicare Savings Program and, as such, the office was returning the mail so that it could be forwarded to the state to determine eligibility (Exhibit B, p. 1). On April 26, 2017, Petitioner sent correspondence to her caseworker regarding the letter from social security and stated, "they recommend that you make a determination as I am eligible for food and medical once that is on place, they will act." (Exhibit A, p. 17).

Here, due to the closure of Petitioner's FAP case in April 2017, a hearing request had to be filed within 90 days of the closure date. While the Petitioner's April 26, 2017 correspondence did express concern to her caseworker regarding her eligibility for food and medical, she did not request a hearing on the FAP issue. Further, there is no evidence that Petitioner had requested a hearing concerning her FAP closure prior to November 22, 2017. Because 90 days had lapsed since she was notified that her FAP case would be closed effective April 1, 2017 due to her failure to submit a redetermination, Petitioner's November 22, 2017 hearing request was untimely.

MA and MSP-QMB

At the hearing, Petitioner's counsel argued that QMB coverage should apply retroactively beginning April 1, 2017 through October 1, 2017 as \$ [REDACTED] per month was deducted from Petitioner's social security.

However, as neither MA nor MSP benefits were specified as an issue in Petitioner's hearing request, these matters are not properly before the Administrative Law Judge for consideration.

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:

1. The Petitioner's hearing request dated November 22, 2017 regarding closure of her FAP case in April 2017 is hereby DISMISSED as it is untimely because it was submitted more than 90 days from the date of the FAP closure.
2. The Department acted in accordance with policy when it determined the start of Petitioner's QMB coverage.

DECISION AND ORDER

Accordingly, the Petitioner's hearing request dated November 22, 2017 is **DISMISSED**.

The Department's decision as to retroactive QMB coverage effective October 1, 2017 is **AFFIRMED**.



MC/kl

Michael Crews
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

[REDACTED]

Petitioner via USPS

[REDACTED]