



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 22, 2018
MAHS Docket No.: 18-000276
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 12, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with her husband as a witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist, and Cindy Smith, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case effective November 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. On August 4, 2017, the Department issued a Redetermination form to be returned to the Department by September 5, 2017 and a Redetermination Telephone Interview form with an interview scheduled for September 5, 2017 at 1:00 PM.
2. On August 9, 2017, the Department decreased Petitioner's Food Assistance Program (FAP) benefits to \$ [REDACTED] due to reduction in the group size.
3. On September 5, 2017, the Department issued a Notice of Missed Interview notifying Petitioner that she had a responsibility to reschedule her FAP interview

before September 30, 2017 otherwise her application would be denied and her case closed.

4. On September 30, 2017, the Petitioner's FAP case closed for failure to complete the interview as required.
5. On October 20, 2017, the Department issued an October 20, 2017, Health Care Coverage Determination Notice (HCCDN) indicating that Petitioner and her husband were not eligible for MA benefits for failure to return the redetermination form and provide required proofs.
6. On January 5, 2018, Petitioner submitted a hearing request disputing the closure of her FAP and MA cases.

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).

Food Assistance Program (FAP)

The 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.

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). BAM 600 (April 2017), p. 2. Moreover, BAM 600, pages 6 and 7, 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 or within 11 days of the effective date of an immediate negative

action. In this case, Petitioner's FAP case closed effective immediately on September 30, 2017, due to her failure to schedule a make-up interview. Petitioner did not request a hearing disputing the closure of her FAP case until January 5, 2018. Petitioner's request was submitted to the Department more than 90 days after the immediate negative action. Therefore, the Michigan Administrative Hearing System does not have jurisdiction to address the closure of the FAP case and this portion of her FAP request for hearing is dismissed. Petitioner's second issue for which she requested a hearing was timely and is discussed below.

Medical Assistance (MA) Program

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.

Petitioner disputed the Department's closure of both her own and her husband's MA cases. The HCCDN indicates that both of their MA cases were closed effective December 1, 2017, for failure to return the redetermination or required proofs. At the hearing, the Department provided a copy of the Bridges EDG-Search/Summary for Petitioner and her husband listing Negative Action Effective Dates as November 1, 2017, for both. In addition, Petitioner testified that their MA cases were closed sometime in November 2017, but she is unsure of the exact date.

At the time the Department sent Petitioner the Redetermination, Petitioner and her husband were recipients of MA under the Health Michigan Plan (HMP) program. HMP is a Modified Adjusted Gross Income (MAGI)-related MA category. BEM 137 (October 2016), p. 1; BEM 131 (June 2015), p. 1. The ongoing eligibility of a recipient of MA coverage under a MAGI-related category is renewed annually. BAM 210 (July 2017), p. 1. Effective July 1, 2016, a recipient of MAGI-based MA is eligible for passive renewal unless the individual has elected to opt out of allowing the Department to access his/her tax information to determine his ongoing MA eligibility. BAM 210, p. 1. Under the passive renewal process, the Department may not request information from the MA beneficiary if the information is already available to the Department from its systems. BAM 210, p. 1. The Department may request information from the recipient *only if* information has changed or is missing. BAM 210, p. 2. If information available to the Department is insufficient to renew MA eligibility, then the Department must send a pre-populated renewal form to the beneficiary and allow him/her 30 days to respond and return the renewal form. BAM 210, p. 2. The individual is not required to take any action, such as signing or returning a notice, if there has been no change in circumstances. BAM 210, p. 2.

In this case, neither the Petitioner nor the Department gave any indication that Petitioner had provided the Department with access to her tax records which would exempt her from having to complete an annual redetermination except in situations of change. Since neither party asserted that Petitioner had provided authorization for tax record access, and neither party asserted that Petitioner was part of the passive renewal process, this decision assumes that Petitioner did not provide the Department with authority to access her tax records and eliminate the requirement that she complete annual redeterminations.

MAGI MA beneficiaries have 30 calendar days to return the pre-populated renewal form. BAM 210, p. 16. Case action notices are sent when the time period given for return of the forms has elapsed. BAM 130 (April 2017), p. 8.

In reviewing the evidence, the Petitioner was unable to identify any dates or times when she turned in the completed Redetermination nor when she called the Department seeking assistance. The Department's call records indicate that the Petitioner called on August 16th and 17th, as well as October 27th of 2017. The call records also indicate that Petitioner contacted the Department in January 2018. Furthermore, the Department does not have the completed Redetermination on file from the Petitioner. Without some additional evidence from Petitioner showing when her Redetermination was submitted to the Department, the Department has met its burden of proof in showing that it acted in accordance with policy by closing her MA case.

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 acted in accordance with Department policy when it closed Petitioner's and her husband's MA cases.

DECISION AND ORDER

PETITIONER'S REQUEST FOR HEARING REGARDING THE CLOSURE OF HER FAP CASE IS DISMISSED FOR A LACK OF JURISDICTION.

The Department's decision is **AFFIRMED**.



Amanda M. T. Marler

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

AM/

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]

Petitioner

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