



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 13, 2018
MAHS Docket No.: 18-000624
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 March 12, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department implement the decision and order issued in Michigan Administrative Hearing System docket number 17-012266?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. A hearing was previously held in front of an Administrative Law Judge (ALJ) regarding Direct Support Services (DSS) for Petitioner in Michigan Administrative Hearing System (MAHS) docket number 17-012266.
2. The ALJ found in favor of the Petitioner and ordered the Department to issue an auto insurance assistance payment in the amount of \$ [REDACTED] in accordance with policy and to notify Petitioner in writing of its decision.
3. On December 18, 2017, the Department was able to obtain a provider number for the involved provider.

4. On January 24, 2018, the Petitioner's caseworker's substitute supervisor submitted the DHS-4663 form and supporting documentation to the fiscal office of the Department for payment processing.
5. Petitioner requested a hearing disputing the failure to take action based upon the ALJ's decision and order in MAHS docket number 17-012266 as well as the closure of her Food Assistance Program and Medicaid cases.
6. As of the hearing date, no further was action taken to issue payment to the provider in accordance with the order of 17-012266.

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 and Medical Assistance Program

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.

At the start of the hearing, Petitioner testified that her concerns related to the closure of her FAP and MA cases had been resolved and she no longer wished to proceed with her hearing request for these two issues. Good cause is found for Petitioner's request to withdraw her hearing request. Therefore, the hearing request as it relates to the issues of FAP and MA is dismissed, and the remaining issue follows below.

Direct Support Services

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

Direct Support Services (DSS) are goods and services provided to help families achieve self-sufficiency. DSS includes Employment Support Services (ESS) and Family Support Services (FSS) that directly correlates to removing an employment-related barrier. There is no entitlement for DSS. The decision to authorize DSS is within the discretion of the Department or PATH program. Employment Support Services (ESS) include, but are not limited to, transportation, special clothing, tools, physical exams, vehicle purchases, vehicle insurance and vehicle repair. ESS may be authorized by the Department or PATH program; see Availability and Clients Served by DHS or Clients Served by PATH in this item. BEM 232 (October 2014), p. 1. [Emphasis in the original].

The Department was previously ordered to pay auto insurance on behalf of Petitioner. More than four months after the Order was issued, the Department has not implemented the order. All hearing decisions must be implemented by the Department within 10 calendar days of the mailing date of the hearing decision unless a stay has been applied to the case. BAM 600 (January 2018), pp. 42-43. When a decision requires a case action different from the one originally proposed by the Department, a DHS-1843, Administrative Hearing Order Certification, is sent with the hearing decision. The Department is required to complete and return the form to MAHS to certify implementation of the decision and a copy is placed in the case file. BAM 600, p. 44. If the hearing decision cannot be implemented as written within 10 calendar days, a local office manager or hearings coordinator should contact MAHS and speak with the supervisor of the ALJ who issued the hearing decision. *Id.* A local office manager or hearings coordinator is responsible to follow-up and ensure implementation of the hearing decision. *Id.* No evidence was presented that the Department has contacted MAHS for assistance. No evidence was presented that the Department returned a completed DHS-1843. The only evidence presented was that the Department's last action was to submit the paperwork to the fiscal office but that nothing happened afterward.

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 failed to implement a hearing decision.

DECISION AND ORDER

PETITIONER'S HEARING REQUEST RELATED TO THE CLOSURE OF HER **FAP** AND **MA** BENEFITS IS **DISMISSED**.

Accordingly, the Department's 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. Implement the decision of MAHS docket number 17-012266 and pay the Petitioner's provider \$ [REDACTED] for Petitioner's auto insurance assistance payment;
2. Issue payment in accordance with Department policy;
3. Notify Petitioner in writing of its decision; and
4. Notify MAHS with a completed DHS-1843 in this case and docket number 17-012266 that the decisions have been implemented.



AM/

Amanda M. T. Marler
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]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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