



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 26, 2018
MAHS Docket No.: 18-001442
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 16, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) eligibility.

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 FIP benefit recipient.
2. On September 5, 2017, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting a Medical Needs form (DHS-49F), Authorization to Release Protected Health Information (DHS-1555), and a Reimbursement Authorization (DHS-3975). The VCL due date for Petitioner to return documents was September 15, 2017.
3. Beginning November 2017, MDHHS stopped Petitioner's FIP eligibility. A corresponding written notice was not mailed to Petitioner.

4. On March 5, 2018, MDHHS mailed Petitioner a Notice of Case Action informing Petitioner of a termination of FIP eligibility beginning February 16, 2018, due to Petitioner's alleged failure to cooperate in pursuit of benefits.
5. On January 30, 2018, Petitioner requested a hearing to dispute the termination of FIP eligibility beginning November 2017.
6. During the hearing, MDHHS was unable to access Petitioner's Electronic Case File (ECF) to verify whether Petitioner timely submitted a Reimbursement Authorization.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FIP benefits beginning November 2017. MDHHS contended that Petitioner's FIP eligibility properly ended due to Petitioner's failure to return a DHS-49-F, DHS-1555, and DHS-3975. Before the merits of MDHHS' contention can be considered, a procedural obstacle must be considered.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2017) p. 2. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. *Id.*, pp. 2-3.

MDHHS did not submit the notice of FIP benefit termination sent to Petitioner with their hearing packet. During the hearing, MDHHS was given additional time to provide a copy of the notice. MDHHS testimony conceded that through the date of Petitioner's hearing request, written notice of FIP eligibility termination was not sent to Petitioner. Based on the evidence, it is found that MDHHS did not issue a Notice of Case Action to Petitioner (at least not before Petitioner requested a hearing).

A negative case action (in this case, the termination of FIP benefits) cannot be implemented without corresponding written notice. The proper remedy for the failure to send notice is to reverse the case action. Thus, MDHHS will be ordered to reinstate Petitioner's FIP eligibility effective November 2017.

As it happened, MDHHS issued Petitioner a Notice of Case Action on March 5, 2018 (after Petitioner requested a hearing). The notice informed Petitioner of a termination of FIP benefits beginning February 16, 2018, due to Petitioner's failure to pursue other benefits. A failure to pursue benefits might be justified if Petitioner failed to sign and return the previously mailed DHS-3975.

Refusal of a program group member to pursue a potential benefit results in group ineligibility. BEM 270 (January 2018) p. 4. A repay agreement [or Reimbursement Authorization (DHS-3975)] is required when there is a potential benefit for state-funded FIP/SDA individuals... *Id.*

[For all programs, MDHHS is to tell...] the client what verification is required, how to obtain it, and the due date... BAM 130 (April 2017) p. 3. Use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. [For FIP benefits,] [s]end a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

At most, the notice of FIP closure from March 2018 could only justify ending Petitioner's FIP eligibility from its stated effective date of February 16, 2018. Thus, Petitioner is minimally entitled to FIP benefits from November 2017 through February 15, 2018. MDHHS' hearing statements implied a contention that Petitioner was not entitled to eligibility past February 15, 2018 due to Petitioner's alleged failure to return a previously requested DHS-49F, DHS-1555, and a DHS-3975. Petitioner testified that she timely returned each document.

The most reliable method to determine whether Petitioner submitted the various documents was for MDHHS to check Petitioner's ECF during the hearing. The ECF electronically stores correspondence sent to MDHHS by clients. At the hearing, MDHHS was given time to access Petitioner's ECF but was unable to do so. After the record was closed, MDHHS sent correspondence to MAHS stating that a check of Petitioner's ECF revealed that Petitioner had failed to timely submit requested documentation. MDHHS' correspondence was not factored because it was sent after the record was closed. As MDHHS has the burden of proof to establish a proper denial, the failure to verify Petitioner's alleged verification failures justifies full reinstatement of Petitioner's FIP eligibility.

MDHHS is not without recourse. If Petitioner failed to submit required documents, MDHHS can terminate Petitioner's FIP eligibility following reinstatement off Petitioner's FIP eligibility. Due to the passage of time since MDHHS requested documentation from Petitioner, it is recommended that MDHHS again request the documents from Petitioner before terminating Petitioner's FIP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility effective November 2017 subject to the findings that MDHHS failed to send notice of FIP termination from November 2017 and that MDHHS failed to establish a basis for terminating Petitioner's FIP eligibility beginning February 16, 2018; and
- (2) Initiate a supplement of any benefits improperly not issued to Petitioner.

The actions taken by MDHHS are **REVERSED**.

CG/



Christian Gardocki

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]
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