



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 25, 2018
MAHS Docket No.: 18-002538
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 three-way 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], hearing facilitator.

ISSUES

1. The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.
2. The second issue is whether MDHHS properly terminated Petitioner's Medicaid eligibility.
3. The third issue is whether MDHHS properly terminated Petitioner's Medicare cost-share (MCS) 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 FAP, Medicaid, and MCS benefit recipient.
2. Petitioner's FAP, Medicaid, and MCS eligibility was certified through January 2018.

3. On December 4, 2017, MDHHS mailed Petitioner a Redetermination (Exhibit A, pp. 2-8) concerning Petitioner's FAP, Medicaid, and MCS eligibility. The Redetermination informed Petitioner of a telephone interview scheduled for January 3, 2018. The Redetermination also informed Petitioner to complete and return the document to MDHHS before the scheduled interview and to submit any required verifications.
4. On 1/3/18, Petitioner failed to contact MDHHS for an interview. Petitioner also failed to submit the previously mailed Redetermination. MDHHS mailed a Notice of Missed Interview (Exhibit A, p. 10) to Petitioner in response to Petitioner's failure to return the Redetermination.
5. On January 19, 2018, MDHHS mailed Petitioner a Health Care Coverage Determination Notice (Exhibit A, pp. 11-14) informing Petitioner of a termination of Medicaid and MCS eligibility beginning February 2018. The stated reason for termination was Petitioner's failure to return a completed Redetermination and/or accompanying verifications.
6. As of February 1, 2018, Petitioner did not return a Redetermination or other acceptable redetermination document to MDHHS.
7. On February 28, 2018, Petitioner submitted a completed Redetermination (Exhibit A, pp. 15-22) to MDHHS.
8. On February 28, 2018, Petitioner requested a hearing to dispute the termination of FAP, Medicaid, and MCS benefits.

CONCLUSIONS OF LAW

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

Petitioner requested a hearing, in part, to dispute a termination of FAP benefits effective February 2018. Petitioner's FAP eligibility stopped as part of the redetermination process.

[For all programs, MDHHS...] must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2018) p. 1). The redetermination/renewal process includes thorough review of all eligibility factors. *Id.* Bridges generates a redetermination packet to the client three days prior to the negative

action cut-off date in the month before the redetermination is due. *Id.*, p. 19. This allows time to process the redetermination before the end of the redetermination month. *Id.* The packet includes... a return envelope. *Id.*, p. 9.

MDHHS alleged that Petitioner's FAP eligibility properly ended due to Petitioner's failure to timely submit a Redetermination or other acceptable redetermination document. Petitioner testimony conceded he did not return any redetermination documentation before the end of his certification period for FAP benefits.

[For FAP benefit redeterminations,] [c]onduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210 (January 2018) p. 6. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. *Id.*

[FAP] [b]enefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.*, p. 3. If the client does not begin the redetermination process, allow the benefit period to expire. *Id.* The redetermination process begins when the client files a MDHHS-1171, Assistance Application and MDHHS-1171-FAP, Supplement-Food Assistance Program; DHS-1010, Redetermination; MDHHS-1171, filing form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.*

The evidence established that MDHHS mailed Petitioner a Redetermination within the timeframes set forth by their policy and that Petitioner failed to return the form before the end of his benefit period. MDHHS followed all required procedures in allowing Petitioner's benefits to expire including mailing Petitioner a DHS-254.

Petitioner testified that he is disabled. Petitioner's testimony implied that his failure to return a Redetermination before the end of his FAP benefit period was excusable because of his disability. MDHHS policy does not excuse a failure to return a Redetermination for the reason of disability.

Petitioner also testified that he is homebound and lacking in transportation. Petitioner's testimony implied that his inability to travel contributed to his failure to return a redetermination. MDHHS policy assists clients like Petitioner by providing return envelopes with mailed redetermination packets. Petitioner's testimony did not explain why he did not utilize the presumably included return envelope provided by MDHHS.

Petitioner's testimony suggested that his submission of a Redetermination to MDHHS on February 28, 2018, entitled him to continued FAP eligibility. Petitioner's submission after his benefits expired creates no known obligations to MDHHS to continue or reinstate FAP eligibility. Petitioner's submission of a Redetermination after the expiration of his benefit period was simply too late to resurrect his benefit eligibility. Petitioner's proper recourse to regain FAP eligibility is to reapply.

Based on the evidence, it is found that MDHHS properly ended Petitioner's FAP eligibility beginning February 2018. The analysis will proceed to consider the termination of Petitioner's Medicaid eligibility.

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

Petitioner also requested a hearing to dispute a termination of Medicaid benefits beginning February 2018. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 11-14) dated January 19, 2018. The notice informed Petitioner of a termination of Medicaid beginning February 2018. The stated reason for benefit termination was Petitioner's failure to return a Redetermination and/or required proofs.

[For Medicaid,] [a] renewal is the full review of eligibility factors completed annually. *Id.*, p. 1. [For Medicaid redeterminations,] [b]enefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 4.

Concerning Petitioner's Medicaid redetermination, the evidence established that MDHHS complied with redetermination procedures and that Petitioner failed to submit a Redetermination before the expiration of his benefit period. These considerations support finding that Petitioner's MA eligibility was properly terminated.

Petitioner testified he did not receive the Health Care Coverage Determination Notice until approximately 10 days after its mailing date. Petitioner's testimony was uncorroborated; however, for purposes of this decision, it will be accepted as fact. Petitioner's testimony is ultimately irrelevant to determining whether MA termination was proper. MDHHS policy does not provide any relief to persons who have slow mail. Petitioner's testimony also does not address why he did not respond to an earlier-mailed Redetermination. It is found that MDHHS properly terminated Petitioner's Medicaid eligibility.

Petitioner lastly disputed the closure of Medicare cost-sharing benefits. Petitioner's dispute is dictated by the Medicaid analysis.

Medicaid [bold lettering removed] coverage includes Medicare cost-sharing benefits. BAM 810 (January 2018) p. 1. This means Medicaid pays Medicare Part B premiums or Part A and B premiums, coinsurances and deductibles for certain Medicaid recipients. *Id.*

It was already found that MDHHS properly terminated Petitioner's Medicaid eligibility. As MCS benefits are incorporated as part of Petitioner's Medicaid eligibility, the closure of Medicaid justified closure of MCS benefits. It is found that MDHHS properly terminated Petitioner's MCS eligibility. Petitioner's recourse is to reapply for benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP, Medicaid, and Medicare cost-share eligibility effective February 2018. The actions taken by MDHHS are **AFFIRMED**.

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

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