



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: October 4, 2018
MAHS Docket No.: 18-004196
Agency No.: ██████████
Petitioner: ██████████

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 October 3, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Mark Boyd, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Child Development and Care (CDC) 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 recipient of Food Assistance Program (FAP), Medical Assistance (MA), and CDC benefits.
2. On March 22, 2018, MDHHS mailed Petitioner a Notice of Case Action informing Petitioner of CDC benefit termination effective April 15, 2018. The stated reason for termination was excess income.
3. On an unspecified date MDHHS terminated Petitioner's MA and FAP eligibility.
4. On April 27, 2018, Petitioner requested a hearing to dispute terminations of CDC, FAP, and MA eligibility.

5. MDHHS did not provide evidence of Petitioner's income.
6. During the hearing, Petitioner withdrew his dispute concerning FAP and MA eligibility.

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).

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 requested a hearing to dispute terminations of FAP and MA eligibility. During the hearing, Petitioner stated that MDHHS has since reinstated his FAP and MA eligibility. Petitioner further stated that he did not need an administrative hearing for FAP or MA because MDHHS reinstated his eligibility. Based on Petitioner's withdrawal, Petitioner's hearing request will be dismissed concerning FAP and MA benefits.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. 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 CDC benefits. MDHHS presented a Notice of Case Action (Exhibit A, pp. 1-3) stating that Petitioner's CDC eligibility ended April 15, 2018. The stated reason for termination was excess income.

If the child does not qualify for one of the CDC Protective Service groups, MDHHS is to determine eligibility for the income eligible group. BEM 703 (January 2018) p. 15. Eligibility for this group is based on program group size and non-excluded income received by any member of the program group. *Id.* In order to enter the CDC program, the family's gross monthly income cannot exceed the Maximum Monthly Income by Family Size associated with the program entry limit. *Id.* Income eligible families may have a copayment amount called a family contribution. *Id.* For income limits and family contributions, see RFT 270. *Id.* CDC eligibility ends for this category when the program group's income exceeds the income eligibility scale; see RFT 270. *Id.*

The presented Notice of Case Action clearly stated that Petitioner's CDC eligibility ended due to alleged excess income. The Notice of Case Action listed Petitioner's gross income as \$██████ and a CDC income limit of \$██████. It is possible that MDHHS properly calculated Petitioner to be ineligible for CDC, but MDHHS failed to provide income verifications supporting how \$██████ was calculated.¹ With no evidence to support how MDHHS calculated Petitioner to be over-income for CDC benefits, it must be found that the termination of CDC was improper.

Consideration was given to what remedy Petitioner is entitled to receive. MDHHS suggested that Petitioner is entitled to a new determination from the date of closure. MDHHS is certainly entitled to determine Petitioner's CDC eligibility, but their failure to justify CDC termination allows Petitioner to be in the position he would be in if not for the improper closure. Thus, Petitioner is entitled to reinstatement of CDC eligibility at levels immediately before MDHHS improperly terminated Petitioner's benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute concerning terminations of FAP and MA benefits. Concerning FAP and MA benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's CDC eligibility. It is ordered

¹ The MDHHS case summary inaccurately claimed that Petitioner's CDC eligibility ended due to Petitioner's failure to submit income verifications. The hearing packet sent by MDHHS appeared to be prepared based on the same inaccurate claim. Thus, MDHHS was left without sufficient evidence to justify termination for the actual basis of CDC termination.

that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's CDC benefits, effective April 15, 2018; and
- (2) Initiate a supplement of any benefits improperly not issued.

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) 763-0155; 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

Richard Latimore
MDHHS-Wayne-57-Hearings

Petitioner

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