



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: September 10, 2018
MAHS Docket No.: 18-007637
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 August 29, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tonya Boyd, manager.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

The second issue is whether Petitioner is entitled to an administrative remedy to address how MDHHS accepts Petitioner's future documents.

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 recipient. Petitioner's benefit period was scheduled to end after June 2018.
2. On May 4, 2018, MDHHS mailed Petitioner a Redetermination Telephone Interview (Exhibit A, p. 4) and Redetermination (Exhibit A, pp. 5-12). The documents informed Petitioner to complete and return the Redetermination before an interview which was scheduled for June 1, 2018.

3. On June 18, 2018, MDHHS initiated termination of Petitioner's FIP eligibility to be effective July 2018. (Exhibit A, p. 13) MDHHS did not mail a corresponding notice to Petitioner.
4. On July 11, 2018, Petitioner requested a hearing to dispute the termination of FIP eligibility. Petitioner also requested a hearing address how MDHHS handled Petitioner's future document submissions. (Exhibit A, p. 2)

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, in part, to dispute a termination of FIP benefits which began July 2018. MDHHS did not present a corresponding Notice of Case Action explaining the basis for termination. MDHHS alleged the termination was proper following Petitioner's alleged failure to return redetermination documents.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210 (January 2018), p. 1.

For all programs, 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. 8. A redetermination/review packet is considered complete when all of the sections of the redetermination form, including the signature section, are completed. *Id.*, p. 11. For FIP benefits, if the redetermination packet is not logged in by the negative action cut-off date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the program. *Id.*, p. 13.

MDHHS contended that Petitioner's electronic case file showed no record of a submitted Redetermination by Petitioner. Petitioner responded that he went to the MDHHS office and submitted a Redetermination before its due date. Petitioner testified that he asked the MDHHS front desk person to copy his document and date stamp it so that Petitioner would have documentation verifying his submission. Petitioner also testified that the MDHHS front desk person refused Petitioner's request. Petitioner provided statements in his hearing request consistent with his testimony.

Consideration was given to finding that MDHHS improperly terminated Petitioner's FIP eligibility given Petitioner's testimony that he timely submitted redetermination documents to MDHHS. Though Petitioner's testimony was credible, it was

uncorroborated. The more reliable evidence for justifying a reversal of Petitioner's FIP eligibility termination involved MDHHS' obligation to give clients notice.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice.¹ A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action

Policy generally requires MDHHS to issue timely notice to clients for benefit terminations; the present case is not among the exceptions to the general rule. MDHHS acknowledged that a Notice of Case Action was never mailed to Petitioner.

MDHHS contended that a Notice of Case Action is unnecessary because redetermination documents mailed to Petitioner warned of benefit termination if documents were not timely returned. Assuming that Petitioner's redetermination documents warned Petitioner of a benefit termination if the documents were not returned, the warning does not meet the policy requirement of providing timely notice with a Notice of Case Action. MDHHS' failure to issue a Notice of Case Action and timely notice of FIP termination is reinstatement of Petitioner's FIP eligibility.

Petitioner also requested a hearing seeking an order that MDHHS date stamp and return a copy of Petitioner's future document submissions. The Michigan Administrative Hearing System (MAHS) can grant hearings to rectify various MDHHS actions such as a benefit closure, application denial, benefit reduction ... BAM 600 (April 2018), p. 5. The order sought by Petitioner is not a basis for which MAHS can grant a hearing. Thus, there is not jurisdiction to order MDHHS to date stamp and return a copy of Petitioner's future document submissions. Concerning this issue, Petitioner's hearing request will be dismissed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner is not entitled to an administrative remedy concerning his future submission of documents. Concerning this issue, 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 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) Reinstatement of Petitioner's FIP eligibility, effective July 2018 subject to the finding that MDHHS failed to issue a Notice of Case Action giving Petitioner timely notice; and

¹ Examples of times that timely notice is not needed include a denial of an application and an increase in benefits. (see BAM 220 (January 2018) pp. 3-4).

(2) Supplement Petitioner for any FIP 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

Denise McCoggle
MDHHS-Wayne-15-Hearings

Petitioner

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MAHS