



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-002585
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 7 CFR 273.15; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 17, 2019, from Lansing, Michigan. [REDACTED] Petitioner, appeared with [REDACTED] [REDACTED] Petitioner's representative. Hearing Facilitator, Tonya Turkelson, appeared for the Michigan Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 16-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly terminate Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly terminate Petitioner's Medical Assistance (MA)?

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 received FAP benefits and MA from the Department.
2. On January 4, 2019, the Department mailed a Redetermination to Petitioner. The Redetermination instructed Petitioner to provide requested information and notified Petitioner that she was scheduled for a telephone interview on February 7, 2019. The Redetermination advised Petitioner that her assistance could be

terminated if she did not respond, provide the requested information, or attend the scheduled telephone interview.

3. Petitioner did not respond, provide the requested information, or attend the scheduled telephone interview.
4. On February 7, 2019, the Department issued a Notice of Missed Interview which instructed Petitioner to reschedule her interview by February 28, 2019, or else her FAP benefits would be terminated.
5. On February 15, 2019, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that her MA was terminated effective March 1, 2019, for failure to return the Redetermination.
6. Petitioner did not reschedule her interview by February 28, 2019, so the Department terminated her FAP benefits. The Department did not issue a notice to Petitioner to notify her that her FAP benefits had been terminated.
7. On March 14, 2019, Petitioner filed a hearing request to dispute the Department's termination of her FAP benefits and MA.

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).

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.

The Department terminated Petitioner's FAP benefits and MA due to her failure to provide requested verification. The Department must tell a client what verification is required, how to obtain it, and the due date. BAM 130 (April 1, 2017), p. 3. The

Department must allow the client 10 calendar days to provide requested verification. BAM 130, p. 7-8. The client must obtain the verification, but the local office must assist if the client needs it and asks for help. BAM 130, p. 7-8. Verifications are only considered timely if they are received by the due date. BAM 130, p. 7-8. The Department must send a Negative Action Notice when the due date lapses or the client has refused to provide the verification. BAM 130, p. 7-8. However, no notice is required for the termination of FAP benefits when the certification period has expired, and a redetermination application was not filed. BAM 220 (January 1, 2019), p. 5.

Here, the Department sent Petitioner a Redetermination which instructed Petitioner what verification was required, how to obtain it, and the due date. It was Petitioner's responsibility to obtain the requested verification and to make sure the Department received it by the due date. Petitioner failed to provide the requested verification or to contact the Department by the due date, so the Department properly terminated Petitioner's FAP benefits and MA.


Petitioner asserted that she could not have complied with the Department's request because she had an accident which led to her hospitalization and subsequent stay at a rehabilitation facility. Petitioner did not present sufficient evidence to establish that she did not receive the Department's Redetermination or that she was unavailable during the time period involved. Further, the Department's policy does not make exceptions for such situations.

DECISION AND ORDER

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 act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits and MA.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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

Amy Assante
2229 Summit Park Dr.
Petoskey, MI
49720

Charlevoix County DHHS- via electronic mail

BSC1- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
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[REDACTED] MI
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