



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 11, 2017
MAHS Docket No.: 17-004703
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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; 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 May 4, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Johnetta Tabron, Eligibility Specialist and Stella Brown-Jackson, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP)?

Did the Department properly close Petitioner's Medical Assistance (MA) case and process her subsequent application for MA benefits?

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 FAP and MA benefits.
2. On November 3, 2016, the Department sent Petitioner a Notice of Case Action advising her that effective December 1, 2016, ongoing, her FAP case would be closed on the basis that the group's gross income exceeded the limit. (Exhibit A, p. 4-5)

3. Petitioner confirmed receiving the November 3, 2016, Notice of Case Action.
4. The November 3, 2016, Notice of Case Action further advised Petitioner that if she did not agree with the FAP case closure effective December 1, 2016, the Department must receive her request for appeal or hearing within 90 days of the mailing date of the Notice, or by February 1, 2017. (Exhibit A, p. 5)
5. On or around February 16, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective March 1, 2017, her MA case would be closed on the basis that she failed to return a redetermination. (Exhibit B.)
6. The Department conceded that the closure of Petitioner's MA case effective March 1, 2017, was improper, as a redetermination had not been mailed to Petitioner.
7. The Department acknowledged that Petitioner's MA case should be reinstated effective March 1, 2017.
8. On or around [REDACTED] 2017, Petitioner reapplied for FAP and MA benefits.
9. The Department did not process or otherwise determine Petitioner's MA eligibility in connection with the [REDACTED] 2017, MA application. The Department did not send Petitioner a Health Care Coverage Determination Notice or other eligibility notice advising whether her MA application was approved or denied.
10. On March 27, 2017, the Department sent Petitioner a Notice of Case Action advising her that her FAP application was denied on the basis that the group's gross income of \$3801 exceeded the \$2184 gross income limit. (Exhibit A, pp. 10-11)
11. Petitioner is employed and earning income weekly. (Exhibit A, pp. 12-13)
12. Petitioner's household consists of three FAP group members. Petitioner's FAP group does not include a senior, disabled, or veteran (SDV) member.
13. On [REDACTED], 2017, Petitioner requested a hearing disputing the closure of her FAP and MA cases and the subsequent denial of the March 7, 2017, application. (Exhibit A, p. 2-3)

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).

FAP

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.

Petitioner requested a hearing disputing the Department's closure of her FAP case effective December 1, 2016, and the denial of her [REDACTED], 2017, FAP application. Department policy provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. For FAP cases only, the client may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600 (October 2016), p. 6. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness; or for FAP cases only, the current level of benefits. BAM 600, pp.4-5.

Because the November 3, 2016, Notice of Case Action was dated more than 90 days prior to Petitioner's [REDACTED], 2017, request for hearing, and because Petitioner confirmed receiving the Notice, the undersigned Administrative Law Judge does not have the authority or jurisdiction to address the closure of Petitioner's FAP case effective December 1, 2016, as it is an untimely hearing request. The hearing proceeded with respect to the denial of Petitioner's [REDACTED], 2017, FAP application.

The Department testified that based on the income information obtained from the Work Number concerning Petitioner's weekly earnings, it determined that her gross monthly income exceeded the income limit and her group was thereby ineligible for FAP benefits. FAP groups with no senior/disabled/veteran (SDV) member, must have gross monthly income below the applicable gross and net income limits. Because Petitioner confirmed that her FAP group does not include any SDV members, the group is subject to the gross income test for FAP eligibility. BEM 550 (January 2017), pp.1-2. The gross income limit for Petitioner's confirmed three person FAP group is \$2184. RFT 250 (October 2016), p 1.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2016), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5-7. A

standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7-9. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

The Department provided a FAP Gross Income Test budget in support of its contention that Petitioner had excess gross income. (Exhibit A, p. 17). According to the budget, the Department concluded that Petitioner had earned income in the amount of \$3801 which it testified consisted of her weekly earnings. Specifically, the Department relied on the Work Number and considered Petitioner's weekly earnings for the month of March 2017. (Exhibit A, pp. 12-13). Petitioner confirmed that the income amounts and pay dates reflected on the Work Number were accurate.

Upon further review and in consideration of the above referenced policies, the Department properly determined that Petitioner was ineligible for FAP, as her gross income was in excess of the \$2184 gross income limit applicable for her three person group size.

MA

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.

Petitioner requested a hearing disputing the Department's actions with respect to the closure of her MA case. Petitioner testified that between the months of January 2017 and March 2017 she was informed by her doctors and pharmacy that she did not have active MA benefits and had to pay out of pocket. Petitioner stated that she was not advised of the closure of her MA case and stated that after she reapplied for MA in March 2017, she did not receive any approval or denial notices from the Department.

At the hearing, the Department testified that based on the eligibility summary, Petitioner had active MA benefits under the Group 2 Caretaker Relatives (G2C) category with a monthly deductible from December 1, 2016, through February 28, 2017. (Exhibit C.) Petitioner disputed that she was approved for MA with a deductible and stated that she was previously receiving full coverage MA without a deductible. However, because Petitioner did not request a hearing to dispute the type or category of MA benefits, the issue will not be addressed with this Decision and Order, as the undersigned ALJ's authority is limited to the issue raised in Petitioner's hearing request.

The Department stated that on February 16, 2017, it sent Petitioner a Health Care Coverage Determination Notice advising her that effective March 1, 2017, her MA case would be closed on the basis that she failed to return a redetermination. (Exhibit B.) The Department conceded that Petitioner's MA case was closed improperly as the redetermination was never sent to Petitioner to complete and return. The Department stated that it would reinstate Petitioner's MA case effective March 1, 2017. Additionally, the Department acknowledged that after receiving Petitioner's March 7, 2017, MA application, it did not process or otherwise determine her eligibility for MA as required by Department policy. Thus, because the effective date of case closure and application month are the same, the Department will be ordered to process Petitioner's MA eligibility from March 1, 2017, ongoing.

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 acted in accordance with Department policy when it denied Petitioner's FAP application but did not act in accordance with Department policy when it closed Petitioner's MA case effective March 1, 2017, and failed to process her [REDACTED], 2017, MA application.

Accordingly, the hearing request with respect to the closure of Petitioner's FAP case effective December 1, 2016, is **DISMISSED** and the Department's decision is **AFFIRMED IN PART** with respect to the denial of the FAP application and **REVERSED IN PART** with respect to MA.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's MA case effective March 1, 2017;
2. Provide Petitioner with any MA coverage she was eligible to receive but did not from March 1, 2017, ongoing; and

3. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-57-Hearings@michigan.gov
BSC4 Hearing Decisions
EQAD
M. Best
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]