



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 12, 2019
MAHS Docket No.: 19-002220/19-001832
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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, an in-person hearing was held on April 3, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Lesley Coffee, Family Independence Manager, and Olivette Gordon, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) cash benefits case, effective March 1, 2019?

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits for the period from May 17, 2018, through May 31, 2018?

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) coverage under AD-Care and the Medicare Savings Program (MSP)?

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, SDA, and MA benefits from the Department. At all times relevant to the instant matter, Petitioner lived in a two-person household with her adult son.

2. On January 4, 2019, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for benefits. Petitioner timely returned the completed Redetermination on January 15, 2019.
3. On February 15, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her SDA cash benefits case was closing, effective March 1, 2019, because Petitioner allegedly failed to return the Redetermination form in a timely manner.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's February 15, 2019, Notice of Case Action.
5. On February 28, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for SDA cash in the amount of \$200 from May 1, 2018, through May 31, 2018, and that she was eligible for FAP in the amount of \$92 from May 17, 2018, through May 31, 2018.
6. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's February 28, 2019, Notice of Case Action.
7. During the April 3, 2019, hearing, the parties stipulated to the consolidation of the two cases initiated by Petitioner's [REDACTED], 2019, and [REDACTED] 2019, hearing requests. The cases were consolidated under Michigan Administrative Code, Rule 792.10118(b).

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).

In this case, Petitioner objects to actions taken with respect to her SDA cash benefits, FAP benefits, and MA benefits.

SDA CLOSURE, EFFECTIVE MARCH 1, 2019

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

On January 4, 2019, the Department issued to Petitioner a Redetermination to gather relevant information regarding Petitioner's ongoing eligibility for SDA cash benefits. The document informed Petitioner that she was required to fill out the form and return it to

the Department by February 4, 2019, in order to avoid the closure of her case. Petitioner returned the completed Redetermination on January 15, 2019. However, for some reason, the Department did not log its receipt of the submission. Thus, on February 15, 2019, the Department issued a Notice of Case Action informing Petitioner that her SDA cash benefits case was closing, effective March 1, 2019, for failing to return the Redetermination. Petitioner filed a request for hearing objecting to that action on [REDACTED] 2019.

The Department must redetermine or renew a client's eligibility for benefits by the end of each benefit period. BAM 210 (January 2019), p. 1. The redetermination process includes a thorough review of all eligibility factors. BAM 210, p. 1. To initiate the redetermination process, the Department issued a redetermination packet to the client at least three days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210, p. 8. In order to certify a new benefit period, the Department must receive the completed form by the negative action cut-off date of the redetermination month. BAM 210, p. 13. If the Department does not receive the completed redetermination form by that date, the Department issues to the client a Notice of Case Action closing the case. BAM 210, p. 13.

In this case, Petitioner timely submitted the completed Redetermination form to the Department on [REDACTED], 2019. That was about one month prior to the negative action cut-off date of the redetermination month. The Department, however, failed to properly process Petitioner's submission, causing the Department to close Petitioner's SDA cash benefits case on the erroneous premise that Petitioner failed to turn in the Redetermination timely. Because the Department's action was not taken in compliance with Department policy and law, the Department's decision is reversed.

FAP BENEFITS FOR MAY 17, 2018 THROUGH MAY 31, 2018

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.

On February 28, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her [REDACTED] 2018, application for FAP benefits was approved on an expedited basis with respect to the period from May 17, 2018, through May 31, 2018. The Notice further stated that Petitioner's son, [REDACTED] was being removed from the FAP group because he "is not or is no longer living with you." The Notice approved Petitioner for \$92 in FAP benefits for that time period and does not make any representations regarding FAP benefits either before or after that time period. Petitioner objected to the Department's action and repeatedly stated that her son was living with her during all times relevant to this matter.

Verification is usually required at application/redetermination, for a reported change affecting eligibility or benefit level, or if information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

During the hearing, the Department representative was unable to provide an explanation for the action taken or why the Notice of Case Action with respect to the action was issued about nine months after the action was taken. Additionally, Petitioner repeatedly testified that during the entire time period relevant to this matter, her son was living with her. Petitioner stated that the Department was aware of that fact. The Department witness testified that the Department had reason to believe that Petitioner was living alone based on applications Petitioner had submitted to the Department.

This appears to be a situation where the information related to an eligibility factor is unclear, inconsistent, or contradictory. When that happens, the Department is required to issue a verification checklist to the client in order to give the client the opportunity to verify the information the client provided. In this case, the record does not include any requests for information related to household makeup. Thus, in concluding that Petitioner's son was no longer in the household, the Department did not follow Department policy. Accordingly, the Department's decision regarding Petitioner's FAP benefits from May 17, 2018, through May 31, 2018, is reversed.

MA BENEFITS

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's hearing request raised the issue of Petitioner's MA benefits. However, the hearing packets prepared by the Department failed to include any information related to Petitioner's MA coverage except for an eligibility summary printout from Bridges showing that Petitioner was approved for AD-Care coverage and denied for MSP on February 29, 2019. No Health Care Coverage Determination Notices were provided, and the Department failed to present anything with respect to those benefits. As Petitioner clearly raised the issue in the hearing request, the Department bore the burden of proving that its actions were taken in compliance with law and policy. As no information was presented, the Department has failed to meet its burden of proof. Accordingly, the Department is reversed with respect to its decision concerning Petitioner's eligibility for MA benefits.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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 SDA cash benefits case, effective March 1, 2019;
2. Reprocess Petitioner's timely submitted Redetermination and ensure that Petitioner is clearly instructed as to her requirements for completing the redetermination process;
3. If Petitioner is eligible for additional SDA cash benefits, issue to Petitioner a supplement;
4. Redetermine Petitioner's eligibility for FAP benefits for the period from May 17, 2018, through May 31, 2018;
5. Issue to Petitioner verification checklist/s if there are any eligibility related factors, such as household makeup, that are unclear, inconsistent, or contradictory;
6. If Petitioner is eligible for additional FAP benefits, issue to Petitioner a supplement;
7. Redetermine Petitioner's eligibility for MA coverage and MSP coverage;
8. Issue to Petitioner verification checklist/s if there are any eligibility related factors that are unclear, inconsistent, or contradictory;
9. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
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

Via Email:

MDHHS-Wayne-57-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
L. Karadsheh
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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