



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 17, 2019
MOAHR Docket No.: 19-006290
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 July 15, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

Did the Department properly close Petitioner's Medical Assistance (MA) Program case?

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 FAP recipient.
2. On April 29, 2019, the Department mailed Petitioner a New Hire Client Notice for employment with the [REDACTED] with a due date of May 9, 2019.
3. On April 30, 2019, the Department received a Change Report from Petitioner.
4. By May 13, 2019, the Department still had not received a completed New Hire Client Notice from Petitioner.

5. On May 13, 2019, the Department issued a Notice of Case Action to Petitioner informing him that his FAP case would close effective June 1, 2019 for failure to verify requested information (income/employment verification).
6. On June 5, 2019, the Department received Petitioner's request for hearing disputing the Department's closure of his FAP and MA cases as well as a completed New Hire Client Notice.

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).

Food Assistance Program (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 to dispute the closure of his FAP case based upon a failure to verify his income through the New Hire Client Notice.

The Department routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (October 2018), p. 1. The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active Department clients. *Id.*

The State New Hire database is established from W-4 tax records (or other new hire reporting formats) submitted by employers to the Michigan New Hire Operations Center. Michigan employers are required to report all new employees within 20 days of the date of hire. *Id.* The State New Hires process matches the Social Security number (SSN) for all active recipients to the database. *Id.* If a SSN match is found on Bridges and the State New Hires database, a State New Hires match is created if there is no earned income reflected in Bridges. *Id.* When the Department becomes aware of new employment, the Department sends a DHS-4635, New Hire Client Notice to the client and the client is given ten calendar days to return the verification. BAM 807, pp. 1-2. If verifications are not provided by the tenth calendar day, the FAP case will be closed. BAM 807, p. 2.

In this case, Petitioner testified that he received the New Hire Client Notice and returned the completed form online through Bridges. However, Petitioner is unable to identify when he returned the form. The Department testified that it had received a Case Change or Change Report on April 30, 2019 and the New Hire Client Notice on June 5, 2019. Petitioner adamantly testified that he returned the New Hire Client Notice before June and that someone from the Department advised him after the fact that the Case Change/Change Report was sufficient for verification of his employment.

The New Hire Client Notice states in bold “Return this form to your specialist in the enclosed envelope by 05/09/2019.” The instructions on the notice are clear that the form itself needed to be returned to the Department. In addition, the Department has testified that it did not receive the completed Notice until June, well after the due date. Since Petitioner was unable to identify when he submitted the Notice prior to June 2019 and provided no supporting documentation of his submission, the evidence shows that the Department properly closed Petitioner’s FAP case effective June 1, 2019.

Medical Assistance (MA) Program

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.

In this case, Petitioner requested a hearing disputing the closure of his MA benefits. Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MAHS and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the

evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

In this case, Petitioner submitted a hearing request objecting to the closure of his MA case. The Department's hearing summary and evidence were void of any information related to Petitioner's MA case.

The Department bears the burden of showing that its challenged actions were taken in compliance with law and policy. To do so, the Department must at least explain why it took the action and provide documentary evidence of the action taken. The Department failed to do either. Thus, the Department failed to meet its burden of proof and must be reversed.

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 closed Petitioner's FAP case but failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the closure of Petitioner's FAP case and **REVERSED IN PART** with respect to the closure of his MA case.

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. Redetermine Petitioner's MA eligibility;
2. Notify Petitioner in writing of its decision.

AM/tm



Amanda M. T. Marler

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc:

[REDACTED]
[REDACTED]
[REDACTED]