



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: September 13, 2019  
MOAHR Docket No.: 19-008752  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 September 11, 2019, from Lansing, Michigan.

Petitioner appeared and testified unrepresented. Petitioner did not call any witnesses and did not offer any exhibits.

The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator. The Department called Katherine Place, APW as a witness.

Respondent Exhibit A.31 was admitted into the record.

### **ISSUE**

Did the Department properly process Petitioner's FAP, MA cases, and Petitioner's nephew's MA 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. Prior to the issues herein, Petitioner had been a beneficiary of the FAP and MA programs. Petitioner's adult nephew lives with Petitioner and is a DAC and has his own MA case number.

2. Petitioner's FAP case was scheduled for redetermination. About this time, Petitioner added 2 new members to her FAP case.
3. Petitioner reported a change in address on her case but failed to report the change for the case number associated with her nephew's MA case. Petitioner subsequently corrected the mistake, but the Respondent failed to issue proper notice of redetermination to the new addresses for both cases.
4. The Department failed to issue an MA redetermination notice for Petitioner's nephew at the correct address. The Department later corrected its mistake. Unrefuted evidence of record is that Petitioner's nephew had no loss and no interruption of MA benefits.
5. A FAP budget effective July 1, 2019 shows a 0-benefit eligibility amount due to excess income. The Department failed to issue notice to Petitioner informing her of the FAP closure. On August 19, 2019 the Department corrected its mistake and hand completed a DHS-176 informing Petitioner that the FAP closed effective July 1, 2019 due to excess net income of \$ [REDACTED] Exhibit A.17.
6. Petitioner did not dispute the FAP budget calculations at hearing.
7. On July 1, 2019 the Department issued a Health Care Coverage Determination Notice to Petitioner that she is eligible for MA full coverage effective July 1, 2019, and transitional MA effective August 1, 2019 through July 31, 2020. Exhibit 29.
8. On July 31, 2019 Petitioner filed a hearing request arguing that she had to pay medical expenses for her nephew.

### **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.

In this case, Petitioner requested a hearing to protest the handling of her FAP and MA case, and the of her adult nephew's MA case. Initially Petitioner only reported a change of address on her MA case, not realizing that her nephew had a separate case number. Petitioner subsequently corrected the mistake. However, the Department issued a subsequent notice to Petitioner's old address. In addition, the Department failed to issue any notice to Petitioner regarding a proposed FAP closure due to excess income. Upon discovery, the Department issued a hand completed DHS-176 to Petitioner regarding the closure of her FAP benefits.

At the hearing, Petitioner argued that the Department erred in mailing the notices to the incorrect addresses or not initially mailing the FAP closure notice. Petitioner is correct. However, it is not clear what remedy Petitioner expects. As to Petitioner's nephew, the Department corrected the error. Furthermore, unrefuted evidence is that the nephew was never without MA—there was no interruption and no closure. Petitioner's hearing request stated that she had to pay her nephew's medical bills out of her own pocket. However, Petitioner had no proof or evidence of such at the administrative hearing.

As to the FAP closure, Petitioner did not dispute the calculation showing excess net income.


Petitioner has no remedy here: To the extent that Petitioner wants an opportunity to make a complaint about the conduct of a state employee, ALJs do not have jurisdiction to review the same. Petitioner may file any complaint with the local office, or with central office in Lansing. To the extent that Petitioner wants some retribution or remedy, there is no benefit(s) that Petitioner is entitled to where she or her nephew did not lose any benefits to which they were entitled, and, there is no remedy to get benefits where not otherwise eligible. Petitioner and her nephew received all benefits to which they were entitled.

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 processing of Petitioner's cases and her nephew's MA did not result in any loss of benefits to which either were otherwise entitled, and thus, the Department is upheld.

**DECISION AND ORDER**

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

JS/nr

  
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Janice Spodarek  
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**

Amber Gibson  
5303 South Cedar  
PO BOX 30088  
Lansing, MI  
48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

[REDACTED]  
MI