



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: November 8, 2019
MOAHR Docket No.: 19-010112
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 31, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Tasha Bryant, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefit 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 MA recipient.
2. In August 2019, Petitioner completed a semi-annual related to her Food Assistance Program (FAP) benefit case. Petitioner reported a change in income/employment for her husband.
3. On August 2, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her husband's new self-employment income (Exhibit A, pp. 4-5).
4. On August 29, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA benefit case was closing

effective October 1, 2019, ongoing, for her failure to verify income (Exhibit A, pp. 6-8).

5. On [REDACTED] 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner was an ongoing MA recent. In August 2019, Petitioner completed a semi-annual related to her FAP benefit case. In the semi-annual, Petitioner reported that her husband had new self-employment income. On August 2, 2019, the Department sent Petitioner a VCL requesting verification of her husband's income. Proofs were due on August 12, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. 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. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (January 2018), p. 2. Negative actions must be deleted in some situations. BAM 220, p. 13. One such situation is when the requirement is met before the negative action effective date. BAM 220, p. 13. The Department will enter the information the client provided to meet the requirement that caused the negative action into the system. BAM 220, p. 13. The Department will then take the additional following actions: (i) reactive the program(s); and (ii) run eligibility and certify the results. BAM

220, p. 13. The negative action date is the day after the timely hearing request date on the notice of case action. BAM 220, p. 12. A timely hearing request is a request received within 10 days of the date the notice of case action was issued. BAM 600 (January 2018), p. 25. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600, p. 25.

The Department testified that Petitioner submitted verification of her husband's self-employment income on August 13, 2019. The Department testified that Petitioner was expected to complete three forms with her husband's self-employment income for the previous 90 days. However, the Department stated that Petitioner only submitted one form and it did not contain income information for the previous 90 days. As a result, Petitioner's MA benefit case was closed. Petitioner testified that she only submitted one form because her worker notified her that she only needed to submit income information for her husband for July 2019.

Petitioner provided credible testimony that she believed she was complying with the Department's request for information. The Department sends a negative action when the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Additionally, Petitioner submitted the documents within the negative action period. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA benefit case.

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 not act in accordance with Department policy when it closed Petitioner's MA benefit case.

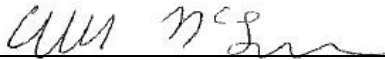
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's MA eligibility as of October 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive; and

3. Notify Petitioner of its decision in writing.

EM/cg


Ellen McLemore
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

Via Email:

MDHHS-Wayne-55-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]