



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: January 24, 2020
MOAHR Docket No.: 19-013170
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 21, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Marisha Brown, specialist, and Ashley Turner, manager.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medicare Cost Share (MCS) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of October 2019, Petitioner was an ongoing recipient of FAP and MCS benefits.
2. On October 1, 2019, MDHHS mailed Petitioner a Mid-Certification Contact Notice (MCCN) concerning continuation of FAP benefits.

3. On October 4, 2019, MDHHS mailed Petitioner a Redetermination form concerning continuation of Medicaid and MCS benefits.
4. On November 10, 2019, MDHHS mailed Petitioner a Notice of Food Assistance (FAP) Closure stating that Petitioner failed to return a mid-certification form and that her FAP eligibility was scheduled to end after November 2019.
5. On November 15, 2019, MDHHS mailed Petitioner notices of Medicaid and MCS termination beginning December 2019.
6. As of November 30, 2019, Petitioner had not submitted to MDHHS the MCCN or Redetermination form.
7. On [REDACTED] 2019, Petitioner requested a hearing to dispute the terminations of FAP and MCS benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits beginning December 2019. Exhibit A, pp. 4-5. A Notice of Food Assistance (FAP) Closure dated November 10, 2019, stated that Petitioner's FAP eligibility was scheduled to end beginning December 2019 due to Petitioner's failure to return a mid-certification form. Indeed, Petitioner's eligibility ended December 2019 due to Petitioner allegedly failing to return a MCCN.

For all programs, MDHHS must periodically redetermine an individual's eligibility for active programs. BAM 210 (October 2019) p. 1. The redetermination process includes a thorough review of all eligibility factors. *Id.* Generally, a complete redetermination is required at least every 12 months. *Id.*, p. 3. MDHHS sends a DHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the 11th month of their benefit period. *Id.*, p. 11.

For FAP benefits, the redetermination process begins when the client returns redetermination documents. BAM 210 (April 2019), p. 3. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, MDHHS is to allow the benefit period to expire. *Id.*

Petitioner's FAP eligibility period was certified through November 2019. MDHHS mailed Petitioner a MCCN on October 1, 2019, as part of the FAP redetermination process. The only dispute was whether Petitioner returned the MCCN.

MDHHS contended Petitioner did not return the MCCN. During the hearing, MDHHS was asked to check Petitioner's electronic case file (ECF). An ECF is an electronic collection of a client's document submissions. MDHHS credibly testified that Petitioner's ECF listed no MCCN returned by Petitioner in October 2019 or November 2019. Additionally, a MDHHS manager testified that she spoke with the specialist formerly assigned to Petitioner's case, who stated that Petitioner had not returned a MCCN before benefit FAP closure.

Petitioner testified that she mailed the MCCN once and emailed it to MDHHS three times. If Petitioner mailed the MCCN, it should have been listed in her ECF. Had Petitioner emailed the form three times to her former specialist, then her former specialist should not have denied receiving the document. Consideration was given to finding Petitioner's testimony that she emailed the MCCN three times to MDHHS to be credible because it was first-hand testimony not directly rebutted. Petitioner's testimony could have been verified by presenting documentation of any of her three emails to MDHHS. Petitioner could have sent copies of her emails to MDHHS before the hearing; she did not. Petitioner could have sent copies to MOAHR before the hearing so the emails could be considered as potential exhibits; she did not. Petitioner could have presented the copies of emails during the hearing; again, she did not. When asked why she did bring copies of her emails to the hearing, Petitioner testified that her documents were stolen from her residence on the date of hearing. Petitioner additionally testified that a support coordinator from her apartment complex was the one who emailed MDHHS and that she did not have time to obtain replacement documents. Petitioner did not explain why she did not provide MDHHS with her alleged emails before the hearing.

Petitioner's failure to corroborate her excuse for not verifying her submission rendered her testimony to be less persuasive than MDHHS'. Given the evidence, Petitioner did not return the MCCN to MDHHS before November 30, 2019. Thus, the closure of FAP benefits beginning December 2019 was proper.¹

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

¹ Petitioner reapplied for FAP benefits in [REDACTED] 2019 and was approved. Petitioner's approval was prorated from her application date. Thus, Petitioner's ultimate loss of FAP benefits is only from the period from December 1, 2019 through the date immediately before her FAP application submission.

Petitioner also requested a hearing to dispute a termination of MCS benefits. A Health Care Coverage Determination Notice dated November 15, 2019, informed Petitioner of a termination of medical benefits due to failing to return the Redetermination form and/or required proofs. Exhibit A, pp. 19-22.

For MA, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors.² BAM 210 (October 2019), p. 1. For all programs, Bridges (the MDHHS database) mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A redetermination/review packet is considered complete when all of the sections of the redetermination form, including the signature section, are completed. *Id.* p. 11. MA benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 4.

Concerning MA benefits, MDHHS mailed Petitioner a Redetermination form on October 4, 2019. Exhibit A, pp. 9-16. Again, the only dispute was whether Petitioner returned the form to MDHHS. Petitioner testified that she submitted the form to MDHHS with her MCCN. The same analysis concluding that Petitioner failed to return a MCCN to MDHHS by November 30, 2019, applies equally to determining whether Petitioner returned the Redetermination form.

As found above concerning the return of the MCCN, the evidence established that Petitioner also did not return her Redetermination form for continuing MA benefits. Thus, MDHHS properly closed Petitioner's MCS eligibility.³

² For Medicaid, an annual review of all eligibility programs is called a "renewal". For all other programs, the process is a "redetermination". BAM 210 (October 2019) p. 1.

³ Petitioner reapplied for MCS in [REDACTED] 2019 and was approved. Petitioner's approval began [REDACTED] 2020. Thus, Petitioner's ultimate loss of MCS benefits was only for December 2019.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP and MCS eligibility beginning December 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

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-Kent-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC3- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]