



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 5, 2019
MAHS Docket No.: 19-000825
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, a telephone hearing was held on March 27, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Philip Jones, Eligibility Specialist, and Gena Harrington, Eligibility Specialist. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-11.

ISSUE

Did the Department follow Department policy when closing Petitioner's Food Assistance Program (FAP) and 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 and MSP benefits from the Department. Prior to the Department's action in this case, Petitioner was receiving \$189 per month in FAP benefits.
2. At some point in late 2018, Petitioner was informed that his FAP and MSP benefits cases were closing. Petitioner made numerous efforts to resolve whatever the issue was before the closing but was unable to do so.

3. On December 19, 2018, Petitioner submitted to the Department an application for FAP and MSP benefits.
4. On January 3, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was eligible for \$13 in FAP benefits from December 19, 2018, through December 31, 2018, and \$32 per month in FAP benefits, effective January 1, 2019. Exhibit A, pp. 5-7.
5. On January 3, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was not eligible for MSP benefits because his income exceeds the limit for program eligibility. Exhibit A, pp. 8-10.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to Petitioner's FAP and MSP benefits.

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's ongoing FAP and MSP benefits cases were closed for unknown reasons in late 2018. Shortly thereafter, Petitioner reapplied for both programs. The Department then issued January 3, 2019, adjudications informing Petitioner that he was eligible for FAP benefits greatly reduced from what he had previously been receiving and ineligible for MSP benefits because his income exceeded the limit of eligibility.

During the hearing, the Department presented no documentary evidence with respect to the initial closures of the programs despite Petitioner clearly objecting to those actions in his hearing request. Instead, the documents presented by the Department only relate to the subsequent application after the closure. Thus, the Department did not meet its burden of proof with respect to the challenged actions taken in this case.

Additionally, ██████████ acknowledged that Petitioner appeared to be eligible for MSP and could not explain why his case was closed or why he was subsequently denied. Furthermore, it was clear based on the discussion on the record that Petitioner's monthly FAP benefits amount was calculated without giving to Petitioner the benefit of his reported medical expenses in the form of premiums. Thus, it is clear that the Department did not prove during the hearing that it followed Department policy and law in closing Petitioner's FAP and MSP cases. Accordingly, the Department is reversed.

DECISION AND ORDER

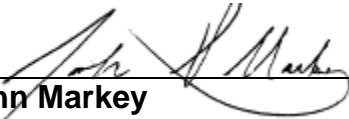
Accordingly, the Department's decision is **REVERSED**.

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 FAP benefits case;
2. Recalculate Petitioner's monthly FAP benefits back to the date of the closure, appropriately taking into consideration Petitioner's income and expenses, including medical expenses;
3. If Petitioner is eligible for additional benefits, issue to Petitioner any supplements due;
4. Reinstate Petitioner's MSP benefits case;
5. Provide Petitioner the MSP benefits that he was entitled to receive from the date of the closure;
6. If Petitioner is due a supplement, issue it according to Department policy; and

7. 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-Oakland-2-Hearing
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

