



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 26, 2019
MOAHR Docket No.: 19-007716
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 August 21, 2019, from Lansing, Michigan. The Petitioner was represented by [REDACTED], Petitioner. The Department of Health and Human Services (Department or Respondent) was represented by Tracie Old, Eligibility Specialist.

Respondent's Exhibit A pages 1-9 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Food Assistance Program (FAP) benefits and deny Petitioner's application for Medical Assistance (MA) benefits?

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 a FAP benefit recipient.
2. On May 20, 2019, Petitioner turned in a Direct Registration Account Statement which indicates that Petitioner has TOD interest in [REDACTED] stocks which have a cash total market value of \$ [REDACTED]
3. The Department caseworker did not understand that TOD = Transfer on Death.
4. On [REDACTED], 2019, Petitioner filed a Medical Assistance application with a statement on it that says, "my stocks have been placed in someone else's name and they are no longer in my name.

5. On June 26, 2019, the Department sent Petitioner a verification checklist asking for proof of the stocks being taken out of her name. The verification information was due July 8, 2019.
6. On July 12, 2019, the Department sent Petitioner a Notice of Case Action stating that her FAP benefits were closed for not returning verification information about the stocks.
7. On July 17, 2019, Petitioner filed a Request for Hearing to contest the Department's negative action.
8. On July 29, 2019, the Michigan Office of Administrative Hearings and Rules received a copy of the Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Petitioner requested a hearing on both her Medical Assistance application denial and her Food Assistance Program cancellation. The Department only addressed to Food Assistance Program cancellation. Petitioner wanted both programs addressed.

Pertinent Department policy dictates:

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications. (BEM 130, page 8)

In this case, the evidence establishes that Petitioner clearly provided evidence on May 20, 2019, that she no longer owns the stock and that the owner of the stock is Linda Kay Rismer TOD (Transfer on Death) to Petitioner. The Department caseworker did not understand the Direct Registration Account Statement, which Petitioner submitted on May 20, 2019.

The Department must establish its case by a preponderance of evidence on the record. A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

This Administrative Law Judge finds that Petitioner did submit sufficient information for the Department to make a determination. In addition, the FAP asset limit is \$5,000.00 or less, which means that even if Petitioner retained the assets, she would not be disqualified automatically from receiving FAP benefits. The Department failed to address the Medical Assistance application during the hearing, stating that it had been addressed in another hearing. However, the Department witness failed to provide sufficient evidence of that fact, so that Medical Assistance application denial must be addressed by the Department. In fact, there was no notice of denial in the evidence.

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 has not established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when it cancelled Petitioner's Food Assistance Program benefits or when it denied Petitioner's application for Medical Assistance benefits. Petitioner did not fail to provide requested verification documentation. Petitioner is not responsible for the Department caseworker's failure to understand the Direct Registration Account Statement, which had already been submitted to the Department caseworker.

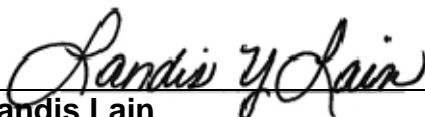
Accordingly, the Department's decision is **REVERSED**.

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. Initiate Reinstatement of Petitioner's FAP benefits to the July 31, 2019, date of cancellation;
2. If Petitioner is otherwise eligible, pay to Petitioner any FAP benefits to which she is entitled; and

3. Reinstate Petitioner's May 30, 2019, Medical Assistance application and determine Petitioner's eligibility for Medical Assistance.

LL/hb



Landis Lain
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

Denise Croff
301 E. Louis Glick Hwy.
Jackson, MI 49201

Jackson County, DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]