



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: December 13, 2019  
MOAHR Docket No.: 19-011233  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **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 December 4, 2019, from Lansing, Michigan. The Petitioner was represented by himself with a sign language interpreter, Leif. The Department of Health and Human Services (Department) was represented by Candice Benns, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP) and Medical Assistance (MA)?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On April 18, 2018, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, indicating that her FAP case was closed effective May 1, 2018. Department Exhibit 3, pgs. 1-4.
2. On August 22, 2019 the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, indicating that her MA cases for her and her two children were closed effective October 1, 2019 due to excess income. Department Exhibit 1, pgs. 1-4.

3. On August 30, 2019, Petitioner stated that she reapplied for FAP and MA, but no verifications were provided from the Department.
4. On September 30, 2019, the Department received a hearing request from Petitioner, contesting the Department's negative action.
5. On October 14, 2019, the Department Caseworker sent Petitioner a Benefit Notice, DHS 176, that she was eligible for MA. Department Exhibit 2, pg. 1.

### **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, the Department made in error after a mass update and closed Petitioner's MA case for her household group of three. The MA case was subsequently reopened, but notice submitted in the hearing dated October 14, 2019, just states that Petitioner is eligible for MA but does not give any dates. The previous notice dated August 22, 2019 stated that Petitioner and her two children were not eligible for MA effective October 1, 2019 due to excess income. This Administrative Law Judge finds the Department has not met their burden. BAM 600 and 220.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it

completed the hearing packet since Petitioner reapplied for FAP and MA on August 30, 2019. The notice submitted dated August 22, 2019, is not sufficient.

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 a redetermination of Petitioner's eligibility for FAP and MA based on her application dated August 30, 2019, by sending out a Verification Checklist, DHS-3503.
2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination.
3. Issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/hb



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**Carmen G. Fahie**  
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**

Deborah Little  
5131 Grand River Ave.  
Detroit, MI 48208

Wayne County (District 49), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHS via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
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[REDACTED], MI [REDACTED]