



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: June 22, 2020
MOAHR Docket No.: 20-001546
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 June 17, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearing Facilitator and Nageeb Ismail, Arabic Interpreter.

ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 FAP and MA recipient.
2. In [REDACTED] 2019, Petitioner completed a redetermination related to his FAP benefit case (Exhibit A, p. 22).
3. On January 21, 2020, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit case was closing effective January 1, 2020, ongoing (Exhibit A, pp. 11-12).

4. On January 22, 2020, the Department sent Petitioner a Wage Match Client Notice requesting verification of his son's wages (Exhibit A, pp. 14-16).
5. On February 11, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective March 1, 2020, ongoing (Exhibit A, pp. 20-21).
6. On February 14, 2020, Petitioner submitted a request for hearing disputing the Department's decisions.

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).

FAP

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.

Petitioner was an ongoing FAP recipient. Petitioner completed a redetermination in [REDACTED] 2019. The Department testified that a Verification Checklist (VCL) was sent to Petitioner on December 26, 2020, requesting verification of his wages. The Department stated that the VCL had a due date of January 6, 2020.

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 FAP 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. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. 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.

The Department stated Petitioner did not return verification of his wages by the VCL due date. As a result, the Department closed his FAP benefit case. However, the Department did not present the VCL that was purportedly sent to Petitioner on December 26, 2020. Additionally, the Department did not present Petitioner's Electronic Case File (ECF) to show Petitioner failed to return the verification. The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. In the absence of such evidence, the Department failed to establish that it properly followed policy when it closed Petitioner's FAP benefit case.

MA

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 was an ongoing MA recipient. On January 22, 2020, the Department sent Petitioner a Wage Match Client Notice, requesting verification of his son's wages. Proofs were due by February 21, 2020.

The Department routinely matches recipient employment data with the Michigan Talent Investment Agency (TIA) and the Unemployment Insurance Agency (UIA) through computer data exchange processes. BAM 802 (April 2017), p. 3. These data exchanges assist in the identification of potential current and past employment income. BAM 802, p. 1. The Department will request verification of income by sending a DHS-4638, Wage Match Client Notice. BAM 802, p. 2. The Department automatically gives the client 30 days to provide verification. BAM 802, p. 2. If verification is not returned by the 30th day, a case action will be sent to the client informing them of the closure of their benefit case. BAM 802, p. 2.

The Department stated that Petitioner did not return verification of his son's income. As a result, the Department closed his MA benefit case. Petitioner stated that he returned the verification. As stated above, the Department did not present Petitioner's ECF showing the documents that he returned. Therefore, the Department failed to establish that Petitioner failed to return the Wage Match Client Notice. Thus, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's MA benefit case.

DECISION AND ORDER

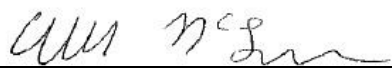
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it close Petitioner's FAP and MA benefit cases.

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 FAP eligibility as of January 1, 2020, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements he is entitled to receive;
3. Redetermine Petitioner's MA eligibility as of March 1, 2020, ongoing, if Petitioner's MA case is inactive;
4. Provide Petitioner with MA benefits he is entitled to receive; and
5. Notify Petitioner of its FAP and MA decisions in writing.

EM/tm



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

DHHS

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI
48212

Petitioner



cc: FAP: M. Holden; D. Sweeney
ME—D. Smith; EQADHShearings
AP Specialist-Wayne County