



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: June 19, 2020  
MOAHR Docket No.: 20-002964  
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 4-way telephone hearing was held on June 11, 2020, from Trenton, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Alice Gilmer, manager, and Jeff Koteles, lead specialist with the Office of Child Support (OCS).

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medicaid 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 March 2020, Petitioner was an ongoing recipient of Food Assistance Program (FAP) benefits and Medicaid.
2. On March 17, 2020, MDHHS terminated Petitioner's Medicaid eligibility beginning April 2020 due to Petitioner's alleged failure to verify child support income. The notice sent to Petitioner did not include a reason for termination.
3. On [REDACTED] 2020, Petitioner requested a hearing to dispute a termination of FAP and Medicaid benefits.
4. On March 31, 2020, MDHHS received child support income verification from Petitioner.

5. On June 11, 2020, during an administrative hearing, Petitioner withdrew her dispute concerning FAP 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. Exhibit A, pp. 4-5. MDHHS did not present a corresponding notice but stated that termination was initiated due to Petitioner's failure to cooperate in obtaining child support. During the hearing, Petitioner testified that MDHHS has since resolved her dispute and that she no longer needs a hearing concerning FAP. MDHHS agreed that FAP benefits have been issued to Petitioner, while warning that such issuances may be temporary. MDHHS indicated that Petitioner is still sanctioned for not cooperating with obtaining child support; however, MDHHS temporarily suspended child support sanctions amid the COVID-19 pandemic. Thus, MDHHS could later terminate Petitioner's FAP eligibility after ending the temporary suspensions of sanctions. During the hearing, Petitioner was given the OCS phone number so she could report paternal information for her children and avoid a later sanction.<sup>1</sup>

MDHHS had no objections to the withdrawal of Petitioner's hearing request concerning FAP benefits. Based on Petitioner's partial hearing request withdrawal, her dispute concerning FAP will be dismissed.

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. MDHHS 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).

Petitioner also requested a hearing to dispute a termination of Medicaid beginning April 2020. Exhibit A, p. 6. In its hearing packet, MDHHS gave no explanation or documentation to justify Medicaid closure. MDHHS testified that a notice of termination was sent to Petitioner on March 17, 2020.

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<sup>1</sup> Petitioner testified that she already reported this information to her MDHHS specialist.

MDHHS must inform the client of the reason for closure in a written notice. BAM 220 (April 2019) p. 2. Notices must include the action taken by MDHHS, the reason for the action, the specific manual item which cites the legal basis for action, an explanation of the right to request a hearing, and the conditions under which benefits may be continued if a hearing is request. *Id.*, pp. 2-3.

MDHHS testimony acknowledged that the closure notice sent to Petitioner did not include a reason for Medicaid termination. Assuming a notice of Medicaid termination was sent to Petitioner, the evidence established that Petitioner was not informed of the reason for closure.

Aside from the lack of proper notice, MDHHS testimony insisted that Medicaid closure was proper due to Petitioner's failure to verify child support income. Notably, MDHHS acknowledged that Petitioner's child support income verification was received in March 2020. MDHHS must delete negative actions when clients comply with program requirements before a negative action date. BAM 220 (April 2020) p. 13. If MDHHS had properly initiated closure of Petitioner's Medicaid beginning April 2020 due to Petitioner's failure to verify income, MDHHS should have stopped the closure after receiving Petitioner's income information before April 2020.

MDHHS testimony emphasized that attempts were made to reinstate Petitioner's Medicaid eligibility. MDHHS testified that Medicaid was processed for Petitioner beginning April 2020, but its database failed to fully process the benefits. Due to the technical difficulties, MDHHS indicated that troubleshooting will need to occur before Medicaid is issued to Petitioner. Notably, MDHHS has had over two months to issue Medicaid benefits to Petitioner and has not done so. MDHHS also did not definitively explain why an attempt to reinstate Petitioner's Medicaid eligibility occurred if benefits properly closed.

Given the evidence, MDHHS failed to send proper notice of Medicaid termination. Additionally, MDHHS failed to stop closure after Petitioner complied with a child support income verification request. The failure by MDHHS to issue proper notice and/or recognize Petitioner's verification compliance entitles Petitioner to a reinstatement of benefits from April 2020.

**DECISION AND ORDER**


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning FAP benefits. Concerning FAP, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's Medicaid eligibility effective April 2020, subject to the findings that:
  - a. MDHHS failed to inform Petitioner of the reason for closure; and
  - b. Petitioner complied with income verification requirements before the negative action date; and
- (2) Issue notice and supplements accordingly.

The actions taken by MDHHS are **REVERSED**.

CG/cg

  
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**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-Wayne-15-Hearings  
Office of Child Support (OCS)-MDHHS  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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