



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: June 13, 2019
MOAHR Docket No.: 19-004895
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 12, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearings Facilitator.

ISSUE

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

Did the Department properly close Petitioner's Medical Assistance (MA) Program 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. On March 3, 2019, the Department completed an asset detection for Petitioner showing three accounts belonging to Petitioner at [REDACTED].
2. On April 16, 2019, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of her checking accounts by providing either a current bank statement or a DHS-20 Verification of Assets by April 26, 2019.

3. On April 18, 2019, Petitioner provided verification of her [REDACTED] account closures.
4. On May 7, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her MA benefits would close effective May 1, 2019, because her income exceeded the limit for this program.
5. On the same day, the Department issued a Notice of Case Action to Petitioner informing her that her FAP case was closing effective June 1, 2019, for failure to provide requested proof of her checking accounts.
6. On May 8, 2019, Petitioner provided a copy of a direct deposit request for an account with [REDACTED] which did not show balance information.
7. On the same day, Petitioner submitted her request for hearing disputing the closure of FAP and MA benefits.
8. On May 10, 2019, Petitioner informed her caseworker that she was having trouble obtaining a bank statement from [REDACTED].

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).

Food Assistance Program (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.

In this case, the Department closed Petitioner's FAP case for failure to verify her checking accounts. Policy provides that the Department usually requires verification of household circumstances at application, redetermination, or reported changes. BAM 130 (April 2017), p. 1. In addition, the Department is required to give clients 10 days to provide the requested verification. BAM 130, p. 7. Negative Action Notices are sent when a client indicates a refusal to provide a verification or the time period given has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Assets and income are used in determining FAP and MA eligibility. BEM 400 (April 2019), p. 1; BEM 500 (July 2017), p. 13.

No evidence was presented that Petitioner had recently completed an application or redetermination, only that the Department completed an asset detection for the MA program. Pursuant to policy, asset detections may only occur at application or redetermination. BAM 210 (April 2019), p. 2; BAM 110 (April 2019), pp. 3-4. Therefore, the Department has not properly shown it completed an asset detection for Petitioner.

Typically, once an asset detection is completed, the Department issues a VCL to the client to verify information obtained from the asset detection. The Department did not specifically identify which accounts it was seeking on the VCL. At the time the Department issued the VCL, the evidence presented shows that the Department was only aware of three [REDACTED] accounts which Petitioner verified before the due date. Only after the due date and after the Notice of Case Action was issued did Petitioner notify the Department of the existence of another account from [REDACTED]. Therefore, the Department's closure of Petitioner's FAP case due to a failure to verify her bank accounts was not in accordance with policy.

Medical Assistance (MA) Program

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 HCCDN informed Petitioner that her case was closed due to excess income for the program in question. At the hearing, the Department indicated that although the HCCDN indicated the closure was based upon income, the actual reason was based upon a failure to verify assets. Policy provides that the Department must inform a client of the reason for closure. BAM 220 (April 2019), pp. 2-3. Since the Department failed to provide Petitioner with notice of the actual reason for her closure and there was no evidence that her income was greater than the income limit, the Department has not met its burden of proof.

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 did not act in accordance with Department policy when it closed Petitioner's FAP and MA cases.

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. Redetermine Petitioner's FAP and MA eligibility;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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

Jeanette Cowens
MDHHS-Wayne-41-Hearings

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

BSC4
M Holden
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D Smith
EQAD