



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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

Date Mailed: June 12, 2019
MOAHR Docket No.: 19-004919
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 telephone hearing was held on June 12, 2019, from Detroit, Michigan. The hearing was held on the scheduled hearing date and at least 30 minutes after the scheduled hearing time. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing.

ISSUES

The first issue is whether Petitioner timely disputed a termination of Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) 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. On January 14, 2019, MDHHS properly mailed a Notice of Case Action informing Petitioner of a termination of FAP benefits effective February 2019. Exhibit A, pp. 7-10.
2. On April 19, 2019, MDHHS terminated Petitioner's MA eligibility effective May 2019 due to Petitioner's failure to return a Redetermination form.
3. As of April 19, 2019, MDHHS failed to properly mail Petitioner a Redetermination form.

4. On May 1, 2019, Petitioner requested a hearing to dispute the terminations of MA and 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).

On May 1, 2019, Petitioner faxed a hearing request to the Michigan Office of Administrative Hearings and Rules. Exhibit A, pp. 1-3. Petitioner's request disputed FAP eligibility from January 2019.¹

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (August 2018), p. 6. Generally, hearing requests must be submitted to MDHHS in writing. *Id.*, p. 2. Requests for Food Assistance Program (FAP) benefit hearings may be made orally. *Id.*

A Notice of Case Action dated January 14, 2019, informed Petitioner of a termination of FAP eligibility beginning February 2019. The address on the notice listed the same address currently used by Petitioner. Petitioner's hearing request submitted to MOAHR was 107 days after written notice of case action was issued. Therefore, Petitioner's hearing request was untimely. Due to Petitioner's untimely hearing request, administrative hearing jurisdiction cannot be established for his FAP dispute. Without jurisdiction, Petitioner's hearing request must 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. 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. 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 MA benefits. A Health Care Coverage Determination Notice dated April 19, 2019, stated that Petitioner's MA ended due to an alleged Petitioner failure to return a Redetermination form.

¹ Petitioner testimony admitted that his FAP eligibility may have actually terminated beginning February 2019.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. BAM 210 (January 2018), p. 1. For all programs, Bridges (the MDHHS database) generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A redetermination/review packet is considered complete when all of the sections of the redetermination form, including the signature section, are completed. *Id.*, p. 11. Medicaid benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 4.

Based on a closure month of May 2019, MDHHS should have mailed Petitioner a Redetermination form in March 2019. Petitioner's testimony denied receiving a Redetermination form. Petitioner's testimony was plausible and unrebutted.² Given the evidence, it is found that MDHHS did not mail Petitioner a Redetermination form. Petitioner's remedy for the MDHHS failure is to receive the Redetermination form for an opportunity to have MA eligibility continued from May 2019.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing to dispute a termination of FAP benefits beginning February 2019. Concerning FAP benefits, 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 MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's MA eligibility from May 2019 subject to the finding that MDHHS failed to mail Petitioner a Redetermination form; and
- (2) Initiate a supplement of any benefits improperly not issued.

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

CG/jaf



Christian Gardocki

Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

² A Hearing Summary from MDHHS alleged that Petitioner was mailed a Redetermination form on March 2, 2019. The statement was not considered because it was unreliable hearsay as MDHHS did not participate in the hearing to support its allegation. Also, MDHHS did not enclose a Redetermination form as part of its hearing packet.

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

Richard Latimore
MDHHS-Wayne-57-Hearings

Petitioner

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

BSC4
M Holden
D Sweeney
D Smith
EQAD