



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: September 11, 2019
MOAHR Docket No.: 19-007146
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, an in-person hearing was held on September 9, 2019, from Hamtramck, Michigan. The Petitioner appeared for the hearing and was represented by her husband and Authorized Hearings Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator, [REDACTED], Hearings Facilitator, and [REDACTED], Assistance Payments Worker.

ISSUE

Did Petitioner submit a timely hearing request as it relates to the Food Assistance Program (FAP) and Medical Assistance (MA) Program?

If so, did the Department properly close Petitioner's FAP case based upon excess income?

Did the Department properly deny Petitioner's, Petitioner's husband's, and Petitioner's three children Medical Assistance (MA) Program benefits for failure to return the completed Redetermination?

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 November 20, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefits would close effective January 1,

2019 because group net income exceeded the income limits after consideration of Petitioner's son's Amazon (Employer 1) earned income.

2. On the same day, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her son, [REDACTED] (Son), was no longer eligible for MA benefits effective January 1, 2019 because his income exceeded the income limit for the Healthy Michigan Plan (HMP) and because he was not disabled, not under 21, not a caretaker of a minor child in the home, not over age 65, not blind, and not pregnant.
3. On April 4, 2019, the Department issued a Redetermination to Petitioner to be completed and returned to the Department within 30 days.
4. On May 17, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that MA benefits had been denied to her, her husband, and her three children in the home because she failed to return a completed Redetermination to the Department.
5. On June 27, 2019, the Department received Petitioner's request for hearing disputing the Department's closure of FAP and MA benefits for all members of the household and listing her husband as her Authorized Hearings Representative.

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, Petitioner disputes the Department's closure of her FAP benefits as of January 1, 2019 as well as the closure of MA benefits for all members of the household.

The first issue to be address is the timeliness of Petitioner's hearing request. Policy provides that all hearing requests must be received by the local office within 90 days of the case action notice issued by the Department. BAM 600 (October 2018), p. 6. In this case, the Department issued a Notice of Case Action for the FAP and a HCCDN for the MA program for Son on November 20, 2019. Petitioner did not submit her hearing request until June 27, 2019. The hearing request as it relates to the FAP and MA benefits for Petitioner's son was not timely. Therefore, the requests for hearing as it relates to the **FAP** and **MA** benefits for **Son** are **DISMISSED**.

Turning to the timeliness of the hearing request disputing the closure of MA benefits for all other members of the household, the Department issued a HCCDN on May 17, 2019. Again, Petitioner's request for hearing was received by the Department on June 27, 2019. Therefore, the hearing request as it relates to the closure of Petitioner's, her husband's, and the three remaining children in the household was timely and will be discussed below.

On May 17, 2019, the Department issued a HCCDN to Petitioner informing her that each remaining member of her household was ineligible for MA benefits because the Department had not received the completed Redetermination for the household.

A complete redetermination/renewal is required at least every 12 months. BAM 210 (April 2019), p. 3. In MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 4. A redetermination/review packet is considered complete when all of the sections of the Redetermination form including the signature section are completed. BAM 210, p. 12. Verifications are due the same date as the Redetermination/renewal. BAM 210, p. 16. At renewal, the Department must provide 30 calendar days for the client to return the form. BAM 130 (April 2017), p. 8. Case action notices are sent when the client refuses to provide verification or the time period given has lapsed. *Id.*

In this case, Petitioner admits that she received the Redetermination and her husband credibly testified that he filled it out, placed it in the self-addressed envelope provided by the Department, and gave it to their son to place it in the mailbox because Petitioner's husband was ill and could not do it himself. Before mailing, Petitioner's husband noted on the form that it was mailed on April 24, 2019 and a copy was made for his own records. Petitioner's husband later confirmed with his son that his son placed the Redetermination in the mail. Despite his efforts, the Department did not receive or did not place Petitioner's completed Redetermination in Petitioner's Electronic Case File. Based upon the evidence presented, it is unclear where in the process the Redetermination was lost, it could have been in the mail, it could have been in the scanning process of the Department. However, because Petitioner's husband took steps to keep his own records of the mailing of his Redetermination including the

notation of the day of mailing and because he placed it in the self-addressed envelope provided by the Department, Petitioner's husband did his due diligence and it is through no fault of his own that the Department did not receive or did not process the Redetermination.

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 denied Petitioner's and her family's MA benefits for failure to return the completed Redetermination.

DECISION AND ORDER

The portions of the hearing request attributable to the **FAP** and **MA benefits for Son** are **DISMISSED**.

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 and her family's MA eligibility effective June 1, 2019;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for MA benefits not previously issued on behalf of Petitioner or her family members; and,
3. Notify Petitioner in writing of its decision.

AM/tm



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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]
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