



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 29, 2019
MOAHR Docket No.: 19-007759
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 August 21, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Heather Oleszkowicz, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP), Medical Assistance (MA), and MA Cost Share (MCS) program?

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 a recipient of FAP, MA, and MCS with a redetermination due.
2. On May 21, 2019, the Department Caseworker sent Petitioner a Verification Checklist, DHS-3503, and a Verification of Assets, DHS 20, due May 31, 2019, to determine continued eligibility for benefits. Department Exhibit 1, pgs. 3-4.
3. On May 31, 2019, the Department received a DHS-20 from Petitioner, but not verification from the bank that the account was closed. Department Exhibit 1, pg. 5.

4. On June 5, 2019, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that her FAP benefits were closed effective July 1, 2019, because of failure to verify bank account. Department Exhibit 1, pgs. 6-7.
5. On June 21, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that effective August 1, 2019, that her MA and MCS cases were closed due to failure to verify bank account. Department Exhibit 1, pgs. 8-9.
6. On July 9, 2019, the Department received a hearing from Petitioner, contesting the Department's negative action and verification that the account was closed from the bank.

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, the Department did not receive verification that Petitioner's bank account had closed until July 9, 2019, which was after the May 31, 2019, verification request date. The Department correctly closed her FAP case July 1, 2019, because her FAP benefit had expired, but her MA and MCS was still open until August 1, 2019. As a result, her MA and MCS case closures were not timely and should have redetermined. BEM 400, 544, 165, 169, and 265. ERM 1010 and 103.

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 acted in accordance with Department policy when it allowed her FAP benefits to expire because she failed to submit asset verification timely and did not act in accordance with Department policy when it allowed her MA and MCS case to close even though they had received the asset on July 9, 2019, which was before the August 1, 2019, closing.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to MA and MCS.

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. Initiating a redetermination of Petitioner's eligibility for MA and MCS retroactive to her case closures of August 1, 2019.
2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/hb



Carmen G. Fahie
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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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