



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: September 17, 2019  
MOAHR Docket No.: 19-009012  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 September 12, 2019, from Detroit, Michigan. Petitioner was present with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Susie Perez, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly follow policy when processing Petitioner's group's Medical Assistance (MA) benefit cases?

Did the Department properly follow policy when processing Petitioner's Food Assistance Program (FAP) benefit case?

### **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 and her group were ongoing FAP and MA benefit recipients.
2. On April 29, 2019, the Department sent Petitioner a Wage Match Client Notice for her husband's former employment at Fibre Converters Inc (Exhibit A, pp. 8-9).

3. On June 18, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FAP benefit case was closing effective August 1, 2019 (Exhibit A, pp. 10-13).
4. On June 20, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to her MA and FAP benefit cases.
5. On July 17, 2019, Petitioner submitted the Wage Match Client Notice (Exhibit A, pp. 14-15).
6. On August 13, 2019, the Department sent Petitioner a NOCA informing her that she was approved for FAP benefits in the amount of \$87 for August 2019 and \$77 for September 1, 2019, ongoing (Exhibit A, pp. 31-36).

### **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).

### **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.

Petitioner was an ongoing FAP recipient. On April 29, 2019, the Department sent Petitioner a Wage Match Client Notice related to her husband's former employment at Fibre Converters Inc, with a due date of May 29, 2019.

The Department routinely matches recipient employment data with the Michigan Talent Investment Agency (TIA) and the Unemployment Insurance Agency (UIA) through computer data exchange processes. BAM 802 (April 2017), p. 3. These data exchanges assist in the identification of potential current and past employment income. BAM 802, p. 1. The Department will request verification of income by sending a DHS-4638, Wage Match Client Notice. BAM 802, p. 2. The Department automatically gives the client 30 days to provide verification. BAM 802, p. 2. If verification is not returned by the 30th day, a case action will be sent to the client informing them of the closure of their benefit case. BAM 802, p. 2.

The Department testified that Petitioner did not timely return the Wage Match Client Notice. As a result, the Department sent Petitioner a NOCA on June 18, 2019, informing

her that her FAP benefit case was closing effective August 1, 2019, ongoing. However, the Department testified that Petitioner submitted the requested verification on July 17, 2019, and her FAP benefit case was reinstated.

At the hearing, the Department testified that Petitioner was receiving \$286 in FAP benefits per month after the reinstatement of her FAP benefit case. However, the Department presented a NOCA issued on August 13, 2019, stating she was entitled to \$87 per month in August 2019 and \$77 for September 1, 2019, ongoing. The Department stated that Petitioner's shelter expense was not included in the budget, resulting in a decrease in FAP benefits. The Department testified that the shelter expense was added back into the budget but could not state whether it was effective August 1, 2019.

Although the Department reinstated Petitioner's FAP benefit case effective August 1, 2019, the Department failed to present sufficient evidence that her FAP benefit case was properly processed once it was reinstated. The Department was unsure as to when Petitioner's shelter expense was added back into the budget and provided no evidence that her FAP benefits were increased to \$286. As such, the Department failed to establish that it properly processed Petitioner's FAP benefit case after it was reinstated.

## **MA**

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 testified that she received notification from the Department that her and her group members' MA benefit cases were closing. Petitioner stated that she received the MA notification on the same date that she received the NOCA related to her FAP benefit case. Petitioner testified that the Department closed the MA benefit cases effective August 1, 2019, ongoing. The Department testified that it believed Petitioner's and her group members' MA benefit cases were active. The Department did not present any documentation showing any actions taken related to their MA benefit cases or any evidence that their MA benefits were active without any lapse in coverage. The Department had very little knowledge as to the status of Petitioner's group's MA benefits, despite Petitioner's clear desire to have a hearing related to her MA benefit case written in the Request for Hearing.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules

(MOAHR) for a hearing before an Administrative Law Judge (ALJ). BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

After hearing the evidence, the ALJ has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39. The Department did not comply with the policy requirements set forth in BAM 600 to allow the undersigned ALJ to make a competent decision with respect to Petitioner's group's MA benefit cases. The Department was unable to provide any explanation as to whether Petitioner's group's MA benefit cases were closed, and no documentation was provided to show that the MA benefit cases were active without any lapse in coverage. Therefore, the Department failed to establish that Petitioner's group's MA benefit cases were properly processed.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's group's FAP and MA benefit cases.

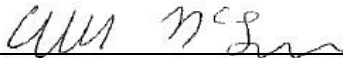
Accordingly, the Department's decision is **REVERSED**.

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 and Petitioner's group members' FAP and MA eligibility as of August 1, 2019, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements she is entitled to receive as of August 1, 2019, ongoing;
3. Provide Petitioner and her group members with MA coverage they are entitled to receive; and

4. Notify Petitioner of its MA and FAP decisions in writing.

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**Ellen McLemore**  
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-St. Joseph-Hearings  
M. Holden  
D. Sweeney  
BSC3- Hearing Decisions  
MOAHR

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

  
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