



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], MI [REDACTED]

Date Mailed: September 25, 2019
MOAHR Docket No.: 19-009212
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 19, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Louis Mitchell, Eligibility Specialist. During the hearing, a 14-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-14.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) and Food Assistance Program (FAP) benefits, effective September 1, 2019?

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 an ongoing recipient of FAP and MA benefits from the Department.
2. In May 2019, Petitioner began working at a new job for [REDACTED].
3. On June 10, 2019, the Department issued to Petitioner a New Hire Client Notice. Petitioner was instructed to fill out the form and return it to the Department. Exhibit A, pp. 5-6.
4. Petitioner did not timely return the completed form to the Department.

5. On July 30, 2019, the Department issued to Petitioner a Notice of Case Action and Health Care Coverage Determination Notice informing Petitioner that his MA and FAP cases were closing, effective September 1, 2019, as a result of Petitioner's failure to return the completed New Hire Client Notice. Exhibit A, pp. 7-8.
6. On August 7, 2019, Petitioner provided to the Department all of the information the Department requested with respect to his new job. Exhibit A, pp. 9-14.
7. On August 22, 2019, Petitioner filed a request for hearing objecting to the Department's impending closure of Petitioner's MA and FAP cases.
8. On September 1, 2019, Petitioner's MA and FAP cases were closed.

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 was an ongoing FAP and MA recipient from the Department when he obtained new employment with [REDACTED]. On June 10, 2019, the Department issued to Petitioner a New Hire Client Notice with instructions to fill out the form and return it to the Department. Petitioner failed to do so by the deadline, prompting the Department to issue July 30, 2019 notices informing Petitioner of the impending closure of his MA and FAP cases, effective September 1, 2019. On August 7, 2019, Petitioner provided all the information requested to the Department. Despite turning in the requested documentation more than three weeks prior to the negative action date, Petitioner's benefits cases closed, effective September 1, 2019.

Department policy requires clients to cooperate with the local office in determining initial and ongoing eligibility, and this includes the completion of necessary forms like verifications related to starting or stopping employment. BAM 105 (January 2019), p. 9. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a change affecting eligibility or benefit level or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (April 2017), p. 1. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative case action when either (1) the client indicates a refusal to provide the verification or (2) the time period has elapsed and the client has not made a reasonable effort to provide the verification. BAM 130, p. 7.

The Department properly issued the July 30, 2019 negative action notices after Petitioner failed to timely provide the required verifications with respect to his new employment. However, that does not end the inquiry into whether the Department's action was correct.

Negative actions must be deleted in some situations. BAM 220 (April 2019), p. 13. One of those situations is when the requirement is met before the negative action effective date. BAM 220, p. 13. When that happens, the Department must reactive the programs, run eligibility, and certify the results. BAM 220, p. 13.

In this case, Petitioner met the verification requirement by August 7, 2019. That was well in advance of the September 1, 2019 negative action date. The Department was required to process Petitioner's submission and make any necessary adjustments to Petitioner's eligibility rather than close his case, effective September 1, 2019.

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 benefits cases, effective September 1, 2019.

DECISION AND ORDER

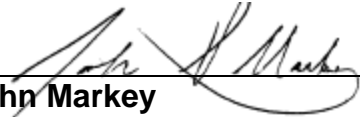
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's MA and FAP benefits cases back to the date of closure;
2. Process Petitioner's submissions with respect to his employment and update Petitioner's benefits accordingly;

3. If Petitioner is eligible for additional benefits, promptly issue a supplement; and
4. Notify Petitioner in writing of its actions.

JM/cg



John Markey
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- Wayne-15-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:


_____, MI _____