



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: November 25, 2019
MOAHR Docket No.: 19-011337
Agency No.: ██████████
Petitioner: ██████████

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 November 20, 2019, from ██████████ Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Gloria Taylor, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefit cases?

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 as an ongoing FAP and MA recipient.
2. Petitioner completed a redetermination related to his FAP benefit case.
3. On May 6, 2019, the Department sent Petitioner's AHR a Verification Checklist (VCL) requesting verification of Petitioner's checking account (Exhibit A, p. 8).
4. On May 24, 2019, Petitioner's AHR submitted verification of Petitioner's checking account (Exhibit A, p. 9).

5. On June 3, 2019, the Department received asset detection information showing Petitioner had a savings account ending in 6698 (Exhibit A, p. 10).
6. On July 25, 2019, the Department sent Petitioner's AHR a VCL requesting verification of the savings account ending in [REDACTED] (Exhibit A, pp. 12-13).
7. On August 7, 2019, the Department sent Petitioner's AHR a Notice of Case Action stating that Petitioner's FAP benefit case was closing effective September 1, 2019, ongoing (Exhibit A, pp. 14-15).
8. On August 7, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective September 1, 2019, ongoing (Exhibit A, pp. 19-22).
9. On August 14, 2019, Petitioner's AHR submitted verification of Petitioner's savings account (Exhibit A, p. 18).
10. On October 15, 2019, Petitioner submitted a request for hearing disputing the Department's decisions.

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. The Department received asset detection information that Petitioner had a savings account that was not properly

verified. As a result, the Department sent Petitioner a VCL on July 25, 2019, requesting verification of the savings account. Proofs were due by August 5, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department testified that neither Petitioner, nor Petitioner's AHR, submitted the verification of the savings account by the VCL due date. As a result, the Department closed Petitioner's MA and FAP benefit cases. The Department stated that Petitioner's AHR submitted the verification of the savings account on August 14, 2019.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (January 2018), p. 2. Negative actions must be deleted in some situations. BAM 220, p. 13. One such situation is when the requirement is met before the negative action effective date. BAM 220, p. 13. The Department will enter the information the client provided to meet the requirement that caused the negative action into the system. BAM 220, p. 13. The Department will then take the additional following actions: (i) reactive the program(s); and (ii) run eligibility and certify the results. BAM 220, p. 13. The negative action date is the day after the timely hearing request date on the notice of case action. BAM 220, p. 12. A timely hearing request is a request received within 10 days of the date the notice of case action was issued. BAM 600 (January 2018), p. 25. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600, p. 25.

Per the Notice of Case Action and the Health Care Coverage Determination Notice, the timely hearing request date was August 19, 2019 and August 31, 2019, respectively. Petitioner's AHR submitted the verification on August 14, 2019. Thus, the Department did not follow policy when it failed to reinstate Petitioner's benefit cases and redetermine his eligibility.

It should be noted that neither Petitioner's AHR, nor the Department, raised the issue of the closure of Petitioner's Medicare Savings Program (MSP) benefit case. There was no evidence presented that Petitioner is an ongoing MSP benefit recipient. However, upon review of the Health Care Coverage Determination Notice received subsequent to the

hearing, there is some suggestion that Petitioner had an MSP benefit case that was closed due to the verification issue. As the issue was not raised at the hearing, it was not addressed in the present decision.

DECISION AND ORDER

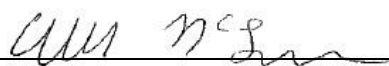
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA and FAP benefit cases.

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 FAP and MA benefits as of September 1, 2019, ongoing;
2. If Petitioner is eligible for MA benefits, provide him with coverage he is entitled to receive;
3. If Petitioner is eligible for FAP benefits, issue supplements he is entitled to receive; and
4. Notify Petitioner of its MA and FAP decisions in writing.

EM/cg-jf



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-██████████-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4-Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

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**Petitioner –
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