



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 13, 2019
MOAHR Docket No.: 19-011798
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 hearing was held on December 12, 2019, from Lansing, Michigan. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Stephanie Wallingford, FIS.

ISSUE

Did the Department properly close Petitioner's CDC?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times prior to the disputed action herein, Petitioner was a beneficiary of the CDC program.
2. In August 2019, the Department issued required redetermination papers for Petitioner's yearly determination with a September 3, 2019, due date.
3. Unrefuted evidence is that Petitioner failed to timely return the forms.
4. On October 10, 2019, the Department issued a notice of closure due to Petitioner's failure to timely return the forms.
5. On October 25, 2019, Petitioner filed a hearing request, checking off boxes for CDC, FIP, and MA.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

General Department policy and procedures is found in BEM and BAM.

As a beneficiary or applicant for welfare benefits, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner. However, in beneficiary administrative hearings, the Department has the burden of going forward.

In this case, unrefuted evidence is that the Department issued notice that the redetermination paperwork, the DHS 1010, was due on September 3, 2019. Unrefuted evidence is that the paperwork was not returned until September 30, 2019.

At hearing, Petitioner repeatedly argued that she turned in her forms timely on September 30, 2019. Petitioner also repeatedly argued that forms regarding her provider should suffice to satisfy the DHS-1010. Neither argument by Petitioner will meet her burden of proof to show that she complied with the verification requirements

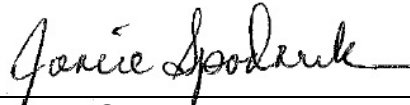
set by federal and state law. As such, the Department's actions were correct under policy and procedure and thus, are upheld.

Petitioner also requested a hearing to dispute her FIP and MA. However, Petitioner did not clearly articulate what action(s) she disputed with regard to her FIP and MA benefits in the 90 days prior to her hearing request. The Department pointed out at the hearing that Petitioner is active. As such, there is no right to a hearing where there is no specific action taken by the Department triggering a fair hearing right.

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 closed Petitioner's CDC case.

DECISION AND ORDER

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



JS/ml

Janice Spodarek
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

Charisse Ryden
51111 Woodward Ave., 5th Floor
Pontiac, MI 48342

Macomb 20 DHHS – Via Electronic Mail

BSC4 – Via Electronic Mail

L. Brewer-Walraven – Via Electronic Mail

Petitioner

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