



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 10, 2020
MOAHR Docket No.: 19-012806
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 6, 2020 from Detroit, Michigan. The Petitioner appeared for the hearing and was represented by his wife and Authorized Hearings Representative [REDACTED]. The Department of Health and Human Services (Department) was represented by Michelle Pruitt, Family Independence Specialist, and Janicka Ashwood, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits?

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly close Petitioner's Medical Assistance (MA) Program benefits?

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.
2. On October 15, 2019, the Department issued a New Hire Client Notice to Petitioner at an address on [REDACTED] Street in [REDACTED] for employment at [REDACTED] (Employer) with a due date of October 25, 2019.

3. As of November 13, 2019, the Department had not received any verifications of employment for Employer 1 and a Notice of Case Action was issued to Petitioner at the same address informing him that both his FAP and FIP benefits were closing effective December 1, 2019 for failure to return the requested information.
4. On November 22, 2019, the Department received Petitioner's request for hearing disputing the closure of FAP, FIP, and Medical Assistance (MA) Program benefits.
5. As of the hearing date, there had been no change in Petitioner's MA eligibility.
6. The Department reinstated Petitioner's FAP benefits pending the hearing due to a timely hearing request.

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).

Family Independence Program (FIP) and Food Assistance Program (FAP)

The 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 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.

In this case, Petitioner disputes the closure of his FIP and FAP benefits for failure to return information related to his employment with Employer. The Department routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (October 2018), p. 1. The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active Department clients. *Id.*

The State New Hire database is established from W-4 tax records (or other new hire reporting formats) submitted by employers to the Michigan New Hire Operations Center. Michigan employers are required to report all new employees within 20 days of the date of hire. *Id.* The State New Hires process matches the Social Security number (SSN) for

all active recipients to the database. *Id.* If a SSN match is found on Bridges and the State New Hires database, a State New Hires match is created if there is no earned income reflected in Bridges. *Id.* When the Department becomes aware of new employment, the Department sends a DHS-4635, New Hire Client Notice to the client and the client is given ten calendar days to return the verification. BAM 807, pp. 1-2. If verifications are not provided by the tenth calendar day, FIP and FAP cases are closed. BAM 807, p. 2.

In this case, Petitioner and his wife began contacting the Department in late October in order to address a change in group composition as well as to discuss Petitioner's employment. Both individuals left voicemails for the case worker in October and November and neither of their voicemails were returned. Neither Petitioner nor his wife were able to speak with the case worker until December 4, 2019. The case worker agrees that she had received voicemails and she failed to communicate with Petitioner or his wife until December 4, 2019. Policy provides that the local office; meaning the case workers, supervisors, eligibility specialist, managers, and front desk staff; must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the Department. BAM 105 (October 2019), p. 15 (*emphasis added*). The voicemails left by Petitioner and his wife were requests for assistance with changing the group and verifying the employment as requested by the Department. The caseworker's failure to respond to their voicemails violated policy and ultimately led to the group's failure to respond on a timely basis to the Department's request. If the case worker had responded timely, Petitioner and his wife may have been able to comply with the request on a timely basis. Therefore, the Department's decision to close Petitioner's FAP and FIP benefits for failure to respond to the New Hire Client Notice was not in accordance with Department policy.

Medical Assistance (MA) Program

The 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, there was no change in Petitioner's MA eligibility. Hearings are granted in MA cases when any of the following occur:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- Community spouse income allowance.
- Community spouse's income considered in determining the income allowance.

- Initial asset assessment (but only if an application for MA has actually been filed for the client).
- Determination of the couple's countable assets or protected spousal amount.
- Community spouse resource allowance.

Therefore, since there was no change in Petitioner's MA eligibility and none of the above items are a concern, there is no issue to decide and the Michigan Office of Administrative Hearings and Rules (MOAHR) does not have jurisdiction. Petitioner's request for hearing as it relates to MA benefits is **DISMISSED**.

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 FIP and FAP case for failure to respond to the New Hire Client Notice.

DECISION AND ORDER


Petitioner's request for hearing as it relates to **MA** benefits is **DISMISSED**.

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 and redetermine Petitioner's FIP and FAP benefits effective as of the closure date;
2. If otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/cg


Amanda M. T. Marler
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
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

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

[REDACTED]

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

[REDACTED]