



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 19, 2020
MOAHR Docket No.: 20-001127
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 11, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lisa Young, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2020, Petitioner was a member of a household which included her three minor children (hereinafter, "Child1", "Child2", and "Child3". The father of Child3 (hereinafter, "Father") also lived in the household with a second child of his (hereinafter, "Child4"), along with Child4's mother (hereinafter, "Mother").
2. On January 23, 2020, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting verification of Mother's employment income and checking account. The due date for Petitioner to return verification was February 3, 2020.
3. On February 3, 2020, Petitioner requested a hearing to dispute MDHHS' request for Mother's income and assets. Petitioner also disputed an anticipated termination of FAP benefits. Additionally, Petitioner disputed Medicaid eligibility.

4. On February 5, 2020, MDHHS terminated Petitioner's FAP eligibility beginning March 2020 due to a failure to verify information.
5. As of February 5, 2020 Petitioner had not returned proof of Mother's income and assets to MDHHS.
6. On March 11, 2020, during an administrative hearing, Petitioner withdrew her dispute over Medicaid.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute Medicaid eligibility. During the hearing, Petitioner testified that her Medicaid dispute was resolved and that she no longer needs a hearing for that issue. MDHHS had no objections to Petitioner's withdrawal. Concerning Petitioner's Medicaid dispute, Petitioner's hearing request will be dismissed.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a FAP-related issue. Exhibit A, pp. 3-4. Petitioner's dispute of FAP benefits incorporated two complaints: objection to MDHHS' request for verification of Mother's income and assets, and an anticipated closure to her FAP benefits. The analysis will begin with Petitioner's objection to a verification request for Mother's income and assets.

MDHHS mailed Petitioner a VCL on January 22, 2020, requesting proof of Mother's wages and checking account. Exhibit A, p. 21. Petitioner objected to the request because she did not believe that she should be responsible for verifying Mother's income and assets.

Clients may request hearings, but only for specific actions taken by MDHHS. A hearing may be granted for any of the following:

- 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.
 - For FAP and CDC, the current level of benefits or denial of expedited service.
- BAM 600 (January 2019) p. 5.

Notably, a request for verification is not among the actions taken by MDHHS for which a hearing may be granted, MDHHS' verification request was relevant to a termination of Petitioner's FAP benefits. A Notice of Case Action was not presented, however, MDHHS testimony credibly stated that notice was sent to Petitioner on February 5, 2020, stating that her FAP eligibility would stop March 2020 due to a failure to verify information. Clients can request hearings to dispute terminations of benefits, but Petitioner requested a hearing two days before MDHHS sent notice of the benefit termination. Generally, clients cannot request a hearing to dispute actions taken by MDHHS after a hearing is requested. In the present case, an exception will be made as MDHHS expressed no objections to proceeding with a hearing and they were prepared to address Petitioner's dispute. The analysis will proceed to address whether MDHHS properly terminated Petitioner's FAP benefits beginning March 2020 due to Petitioner's alleged failure to verify information.

Wages are the pay an employee receives from another individual organization or S-Corp/LLC. BEM 501 (October 2019) p. 6. For FAP, wages must be verified at application, program add, member add, redetermination, or whenever otherwise required by policy. *Id.*, pp. 9-10

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

It was not disputed that Petitioner failed to return verification of Mother's income and assets by the VCL due date of February 3, 2020 or the closure notice date of February 5, 2020. Petitioner contended that her failure to return verification was irrelevant because MDHHS requested invalid information. The validity of MDHHS' request is dictated by the persons in Petitioner's benefit group.

As of January 1, 2020, Petitioner reported to MDHHS a household that included herself and her three children. MDHHS issued FAP benefits to Petitioner accordingly. On

██████████ 2020, Mother applied for benefits from MDHHS and reported an address which matched Petitioner's address. Mother also reported that her household included Child4 and Father. Mother's application made MDHHS realize that Petitioner's household included more persons than previously reported by Petitioner. Petitioner not only lived with her three children, but also her youngest child's father (Father), his girlfriend (Mother), and a biological child of Father and Mother (Child4).

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. BEM 212 (April 2019), p. 1. First, MDHHS is to determine who must be included in the group. *Id.* If they are not mandatory group members, then MDHHS is to determine if the household members purchase and prepare food together or separately. *Id.* Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. *Id.*

Upon learning of Petitioner's updated household, MDHHS had to reconsider Petitioner's FAP group. Father is a mandatory group member with Petitioner because he is a parent to a child under 22 with Petitioner. Child4 is a mandatory group member with Petitioner because his father is in Petitioner's group. Mother is a mandatory group member with Petitioner because she is a parent to Child4.

Petitioner's contended that she and her children should be in a separate benefit group from other household members because they buy and prepare food separately from other household members. Petitioner's contention is incorrect because buying and preparing food separately from household members is only relevant for determining non-mandatory group members.

Given the evidence, Mother is a mandatory FAP group member with Petitioner. Based on her addition to Petitioner's FAP group, MDHHS had authority to request verification of Mother's income and assets. As Petitioner did not return verification to MDHHS, MDHHS properly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning Medicaid. Concerning Medicaid, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP benefits beginning March 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tlf



Christian Gardocki

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 Administrative Hearings and Rules.

Via Email:

MDHHS-Wayne-17-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney

Petitioner – Via First-Class Mail:

