



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]

Date Mailed: December 16, 2020
MOAHR Docket No.: 20-006680
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 hearing was held on December 10, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings coordinator.

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 July 2020, Petitioner was an ongoing FAP recipient with a benefit period certified through July 2020.
2. Beginning August 2020, MDHHS terminated Petitioner's FAP eligibility beginning August 2020 due to Petitioner not returning a Mid-Certification Contact Notice (MCCN).
3. On [REDACTED], 2020, Petitioner requested a hearing to dispute the termination of FAP benefits beginning August 2020.

4. As of the date of hearing, MDHHS had not mailed Petitioner a MCCN or written notice of closure.

CONCLUSIONS OF LAW

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 requested a hearing to dispute a termination of FAP eligibility. Petitioner initially testified that he last received FAP benefits in June 2020, but later acknowledged that he last received FAP benefits in July 2020. Thus, the present case concerns a FAP termination beginning August 2020. MDHHS's Hearing Summary stated that Petitioner's FAP eligibility ended because Petitioner failed to return a MCCN. Exhibit A, p. 1

MDHHS must periodically redetermine an individual's eligibility for active programs. BAM 210 (July 2020) p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* Bridges sends a DHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the 11th month of their benefit period. *Id.*, p. 11. A MCCN is considered complete when all of the sections (including the signature section) are answered completely and required verifications are returned. *Id.* If the DHS-2240A is not logged in Bridges by the 10th day of the 12th month, Bridges (the MDHHS database) will generate a DHS-2240B, Potential Food Assistance (FAP) Closure, to the client. *Id.*, p. 13. This reminder notice explains that the client must return the DHS-2240A and all required verifications by the last day of the month, or the case will close. *Id.*

In the present case, MDHHS acknowledged that a MCCN was never sent to Petitioner. As a result, MDHHS also did not send Petitioner a DHS-2240B notifying Petitioner that a MCCN must be returned. Since a MCCN was not sent to Petitioner, MDHHS should have corrected its error by sending Petitioner a MCCN and processing Petitioner's FAP eligibility from the improper time of closure: August 2020. Instead, MDHHS mailed Petitioner an assistance application. An assistance application is an acceptable substitute for a MCCN. *Id.*, p. 16. An application is also much more detailed and tedious for a client to complete. Nevertheless, Petitioner returned a completed assistance application to MDHHS on [REDACTED] 2020. MDHHS processed Petitioner's application and approved FAP benefits for Petitioner beginning December 2020. Inexplicably, MDHHS failed to process Petitioner's FAP eligibility back to August 2020 to compensate for its failure to send Petitioner an MCCN or written notice of closure.

Given the evidence, MDHHS improperly terminated Petitioner's FAP eligibility beginning 2020 by failing to timely mail Petitioner a MCCN. As Petitioner already submitted an acceptable substitute for a MCCN, MDHHS will be ordered to process Petitioner's application as a timely returned redetermination document to affect benefit eligibility beginning August 2020.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility beginning August 2020. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner's FAP eligibility beginning August 2020 subject to the findings that MDHHS failed to properly mail Petitioner a MCCN, MDHHS failed to issue proper written notice of closure, and that Petitioner submitted an application on [REDACTED], 2020, to serve as a redetermination document; and
- (2) Issue benefit supplements and notices accordingly.

The actions taken by MDHHS are **REVERSED**.

CG/tm



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 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-19-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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