



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: September 29, 2021
MOAHR Docket No.: 21-003662
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 via telephone conference line on September 22, 2021. Petitioner participated and was represented. [REDACTED] Petitioner's sister, participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Hayat Nagi, manager, and Marina Siryani, specialist.¹

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 May 2021, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through June 2021.
2. On May 3, 2021, MDHHS mailed Petitioner a Semi-Annual Contact Report (SACR) listing a due date of May 24, 2021.
3. On June 10, 2021, MDHHS mailed Petitioner a Notice of Food Assistance FAP Closure form warning Petitioner that FAP benefits would stop at the end of the month unless a completed SACR was returned.

¹ The MDHHS specialist began the hearing as the sole representative for MDHHS. During the hearing, the conference line dropped the specialist's call. Subsequently, the MDHHS manager called the conference line to assume MDHHS representation.

4. Through June 30, 2021, Petitioner did not return a SACR to MDHHS.
5. Beginning July 2021, Petitioner's FAP eligibility ended.
6. On [REDACTED] 2021, Petitioner requested a hearing to dispute the closure of FAP benefits. Petitioner also disputed a termination of Medical Assistance (MA) benefits.
7. On September 22, 2021, during an administrative hearing, Petitioner's AHR withdrew the dispute concerning MA eligibility.

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. MDHHS 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, in part, to dispute a termination of MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated July 9, 2021, stated that Petitioner's MA case would end beginning July 2021 due to Petitioner's alleged failure to verify a checking account. Exhibit B, pp. 1-4. MDHHS later received Petitioner's checking account information and sent Petitioner a notice dated August 27, 2021 approving Petitioner for MA benefits beginning July 2021. Ultimately, the approval of MA negated the previous closure and Petitioner experienced no loss of MA benefits. Due to Petitioner experiencing no loss of MA benefits Petitioner's AHR withdrew the dispute over MA benefits. Concerning MA benefits, Petitioner's hearing request will be dismissed.

The Food Assistance Program [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. MDHHS 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 termination of FAP benefits. A Notice of Food Assistance (FAP) Closure stated that Petitioner's FAP case would close July 2021 due to a failure to return a SACR. Exhibit A, pp. 14-15.

MDHHS sends a SACR in the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (April 2019) pp. 10-11. A complete SACR must be submitted by groups with countable earnings and a 12-month benefit period. *Id.*, p. 11. A report is considered complete when all sections of the SACR are answered and required verifications are returned. *Id.* If MDHHS does not log the SACR by the 10th day of the sixth month, a Potential Food Assistance (FAP) Closure is sent to the client. *Id.*, p. 14. This reminder notice explains that the client must return the SACR and all required verifications by the last day of the month, or the FAP case will close. *Id.* If the client fails to return a complete SACR by the last day of the sixth month, the client's case automatically closes. *Id.*

MDHHS testified that Petitioner was sent a SACR on May 3, 2021; a copy of the document was presented. Exhibit A, pp. 6-10. MDHHS testified that the SACR was not received by the end of Petitioner's benefit period. MDHHS's testimony was corroborated by a list of Petitioner's submissions which notably did not include a timely returned SACR. Exhibit A, pp. 11-13.

Petitioner testified that she did not receive the SACR. Petitioner's testimony was questionable as the SACR listed the same mailing address confirmed by Petitioner during the hearing. Exhibit A, p. 8. Also, Petitioner's testimony tended to revert to her attempts to verify bank account balances rather than timely returning the SACR.

The evidence established that MDHHS properly mailed Petitioner a SACR as part of a FAP benefit redetermination. The evidence also established that Petitioner failed, to return the SACR before the end of her benefit period. MDHHS properly warned Petitioner of closure by sending a Notice of Food Assistance (FAP) Closure. Given the evidence, MDHHS properly terminated Petitioner's FAP eligibility beginning July 2021.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner's AHR withdrew Petitioner's dispute over a termination of MA benefits beginning July 2021. Concerning the dispute of MA benefits, 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 eligibility beginning July 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki
Administrative Law Judge

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-Macomb-20-Hearings
M. Holden
D. Sweeney
C. George
EQADHearings
BSC4
MOAHR

Via First Class Mail:

Petitioner -

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Authorized Hearing Rep. -

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