



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 24, 2022
MOAHR Docket No.: 22-000485
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 March 16, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Angela Abernathy, Family Independence Specialist.

ISSUE

Did the Department properly issue supplements to Petitioner for benefits not previously received?

FINDINGS OF FACT

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

1. In November 2021, Administrative Law Judge Nuccio (ALJ) held a hearing involving the same parties as this case and reversed the actions taken by the Department related to Petitioner's FAP benefits.
2. In January 2022, the Department received another hearing request from Petitioner arguing that the Department had failed to implement ALJ's decision and disputing his Medical Assistance (MA) Program coverage.
3. In February 2022, the Department issued a supplement to Petitioner in an effort to address the action items created by ALJ's decision however no notice or explanation was provided to Petitioner for the supplement.
4. Petitioner continues to contend that the Department has not fully satisfied the order of ALJ because the supplement issued was not enough.

5. At the hearing, Petitioner agreed that his concerns related to MA coverage had been addressed and he wanted to withdraw that portion of his 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).

Food Assistance Program (FAP)

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 argues that the Department has failed to properly implement the decision issued by ALJ. The Department argues that it complied with ALJ's order by issuing a supplement to Petitioner in February 2022 but agrees that it failed to issue notice or any form of explanation to Petitioner regarding the supplement. Per policy, any time a hearing decision requires a redetermination of eligibility, a Notice of Case Action must be sent upon the redetermined action. BAM 600 (March 2021), p. 43. Furthermore, a Notice of Case Action must explain the actions being taken by the Department, the reasons for the actions, the manual item or legal citation relied upon in taking the action, the right to request a hearing, and the circumstances under which benefits may be continued upon a hearing request. BAM 220 (November 2021), p. 3. Since the Department had to reevaluate Petitioner's group's FAP eligibility to calculate the supplement, the Department should have issued notice to Petitioner with an explanation of its actions. The Department failed to follow 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.

Petitioner's concerns related to his MA coverage have been resolved and he no longer wishes to proceed with a hearing. Petitioner's request for hearing as it relates to his group's MA coverage 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 failed to issue notice with an explanation to Petitioner regarding the supplement in February 2022.

DECISION AND ORDER

The portion of Petitioner's hearing request attributable to the MA program is DISMISSED.

The Department's decision is as it relates to the supplements issued to Petitioner for his FAP benefits 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. Issue notice to Petitioner explaining how the Department determined the amount of the supplement issued to him in response to ALJ's decision with a right to request a hearing.

AMTM/cc



Amanda M. T. Marler
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-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
EQADHearings
C. George
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

[REDACTED]
MI [REDACTED]