



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 15, 2022
MOAHR Docket No.: 22-002994
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 August 11, 2022. Petitioner did not participate. Petitioner's nephew, [REDACTED], testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Ashley Soper, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) and Medicare Savings Program (MSP) 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 2022, Petitioner was an ongoing recipient of FAP and MSP benefits.
2. On May 12, 2022, MDHHS mailed Petitioner a New Hire Client Notice requesting information of Petitioner's employment with Undercar Products Group (hereinafter, "Employer") by May 23, 2022.
3. On May 25, 2022, MDHHS initiated termination of Petitioner's FAP eligibility beginning July 2022 due to not receiving the New Hire Client Notice.
4. On May 25, 2022, MDHHS initiated termination of Petitioner's MSP eligibility beginning June 2022 due to not receiving the New Hire Client Notice.

5. On May 26, 2022, MDHHS received correspondence from Petitioner addressing Petitioner's employment with Employer.
6. Beginning June 2022, Petitioner's MSP eligibility ended.
7. Beginning July 2022, Petitioner's FAP eligibility ended.
8. On July 14, 2022, Petitioner requested a hearing to dispute the termination of FAP and MSP benefits.

CONCLUSIONS OF LAW

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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner's AHR requested a hearing to dispute terminations to Petitioner's FAP and MSP eligibility. Exhibit A, pp. 3-4. MDHHS failed to present a closure notice for either disputed program. MDHHS testified that a Notice of Case Action dated May 25, 2022, stated that Petitioner's FAP eligibility would end July 2022 due to an unreturned New Hire Client Notice. MDHHS also testified that a Health Care Coverage Determination Notice dated May 25, 2022 stated that Petitioner's MSP eligibility would end beginning June 2022, also due to an unreturned New Hire Client Notice.

MDHHS routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (January 2021) p. 1. The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active MDHHS clients. *Id.* When income is unreported, MDHHS requests verification of new hires by generating a New Hire Client Notice. *Id.*, p. 2. The notice gives the client 10 calendar days to provide income verification from the date of New Hire Client Notice. *Id.* If verifications are not returned by the 10th day, action will need to be initiated to close the case. *Id.*

MDHHS sent Petitioner a New Hire Client Notice dated May 12, 2022, requesting information of Petitioner's income from Employer. Exhibit A, pp. 9-11. The stated due

date was May 23, 2021. It was not disputed that MDHHS did not receive the New Hire Client Notice until May 26, 2022.¹

Given the evidence, MDHHS properly initiated closure of Petitioner's FAP and MSP eligibility. However, Petitioner's compliance on May 26, 2022, should have halted both program closures.

There are two types of written notice: adequate and timely. Adequate notice is a written notice sent to the client at the same time an action takes effect. BAM 220 (November 2021) p. 3. A timely notice is mailed at least 11 days before the intended negative action takes effect; the action is pended to provide the client a chance to react to the proposed action. *Id.*, p. 4. Timely notice is given for a negative action unless policy specifies adequate notice or no notice.² *Id.* The negative action effective date is calculated by the MDHHS database and is the day after the timely hearing request date listed on the notice.³ *Id.*, p. 12.

A closure of FAP and/or MSP benefits due to a client's failure to timely return a New Hire Client Notice requires timely notice. Thus, Petitioner had at least 11 days from the notice mail date of May 25, 2022, to correct her unreturned New Hire Client Notice.⁴ Petitioner did so within only one day of the closure notice: on May 26, 2022. Thus, Petitioner returned the New Hire Client Notice before the negative action effective dates of closure. In response to Petitioner's submission, MDHHS should have processed the New Hire Client Notice to affect Petitioner's ongoing FAP and MSP eligibility. Instead, MDHHS allowed Petitioner's FAP and MSP benefits to lapse.

Given the evidence, MDHHS improperly terminated Petitioner's FAP eligibility beginning July 2020. The evidence also established that MDHHS improperly terminated Petitioner's MSP eligibility beginning June 2022. As a remedy, MDHHS will be ordered to redetermine Petitioner's FAP and MSP eligibility based on the returned New Hire Client Notice information.

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 and MSP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

¹ MDHHS testified that Petitioner did not return a completed New Hire Client Notice. MDHHS testified that Petitioner instead submitted correspondence which equated to a returned New Hire Client Notice.

² Circumstances when no notice is required are listed in BAM 220 (July 2020) p. 5.

³ A timely hearing request date is the last date that a client has to request receiving the benefits issued before the pending negative action while the hearing is pending. BAM 600 (March 2021) p. 25.

⁴ The evidence did not establish the precise negative action date for the closure of FAP or MSP benefits.

- (1) Redetermine Petitioner's MSP eligibility beginning June 2022 subject to the finding that Petitioner returned a New Hire Client Notice before the negative action effective date;
- (2) Redetermine Petitioner's FAP eligibility beginning July 2022 subject to the finding that Petitioner returned a New Hire Client Notice before the negative action effective date; and
- (3) Issue a supplement of benefits and/or written notice in accordance with policy.

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

CG/mp



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-Electronic Mail :

DHHS
MDHHS-Oakland-6303-Hearings
D. Sweeney
M. Holden
C. George
MOAHR
BSC4

Via-First Class Mail :

Authorized Hearing Rep.

[REDACTED]
[REDACTED], MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]