



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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[REDACTED] MI [REDACTED]

Date Mailed: March 22, 2023
MOAHR Docket No.: 23-000792
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 March 15, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings facilitator.

ISSUE

The issue is whether MDHHS properly processed Petitioner's Medical Assistance (MA) 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. On January 12, 2022, MDHHS mailed Petitioner notice of MA approval under Freedom-to-Work (FTW), subject to a monthly premium of \$115.93.
2. On February 7, 2023, Petitioner requested a hearing to dispute MA and Food Assistance Program (FAP) eligibility.
3. On February 13, 2023, MDHHS mailed Petitioner notice of MA approval under FTW beginning May 2022, subject to no monthly premium.
4. On March 15, 2023, Petitioner withdrew her dispute over FAP eligibility.

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).

Petitioner requested a hearing, in part, to dispute a termination of FAP benefits. Exhibit A, pp. 3-16. During the hearing, Petitioner testified that MDHHS favorably resolved her dispute over FAP benefits and a hearing was no longer needed for that issue. MDHHS had no objections to Petitioner's partial hearing request withdrawal, Concerning FAP benefits, Petitioner's hearing request will be dismissed.

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 also requested a hearing to dispute MA eligibility. Exhibit A, pp. 3-16. Petitioner testified that she specifically disputed monthly MA premiums for which she has been billed over several months. MDHHS credibly testified that before Petitioner requested a hearing, Petitioner was eligible for MA under FTW since February 2022, subject to monthly premiums of \$115.93.¹ However, a Health Care Coverage Determination Notice dated February 13, 2023, partially resolved Petitioner's dispute; the notice stated that Petitioner was eligible for MA under FTW beginning May 2022 with an estimated premium of \$0. Exhibit A, pp. 29-31. Thus, Petitioner's responsibility for an MA premium from February through April 2022 remains unresolved.²

MDHHS credibly testified that Petitioner was sent a Health Care Coverage Determination Notice on January 12, 2022, approving Petitioner for MA under FTW subject to monthly premiums of \$115.93. Notably, Petitioner requested a hearing to dispute the premium on February 7, 2023.

¹ FTW is an MA category intended for clients with a disability and earned income (see BEM 174); there was no evidence that Petitioner had any earned income. MDHHS explained that Petitioner's MA eligibility under FTW likely occurred after Petitioner began receiving monthly Social Security Administration benefits which would normally render her ineligible to receive MA benefits. MDHHS explained that it is temporarily barred since the beginning of the COVID-19 pandemic from terminating MA benefits due to excess income; instead, such MA recipients receive MA under FTW.

² MDHHS testimony indicated its database listed an FTW premium of \$0 for April 2022. However, because documentation was not presented verifying Petitioner's MA eligibility for April 2022, it will be accepted that Petitioner may still owe a premium for April 2022.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. For all programs except FAP benefits, hearing requests must be submitted to MDHHS in writing. *Id.*, p. 2.

Petitioner's testimony denied receiving notice of an MA premium in January 2022. MDHHS credibly testified that the notice was printed and prepped for mailing by its database; thus, human error by MDHHS in the mailing of the notice is unlikely. MDHHS also testified to the notice mailing address which Petitioner verified as her own.

If Petitioner did not receive notice of the premium back in January 2022, it would be expected that Petitioner request a hearing shortly after being first billed for a premium; presumably, a premium bill would have been mailed shortly after the notice. Petitioner waited over one year since the notice mailing to request a hearing. Petitioner testified the delay in requesting a hearing is the result of extensive communication with MDHHS to resolve the dispute. A lapse of approximately one year between notice of a premium and a hearing request is more indicative of negligence rather than an absence of notice.

The evidence established that Petitioner received notice of a monthly premium mailed on January 12, 2022. Petitioner requested a hearing 411 days after written notice was mailed. Thus, Petitioner's hearing request was untimely and there is no administrative hearing jurisdiction to address Petitioner's dispute over MA 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 FAP benefits and that Petitioner failed to timely request a hearing to dispute MA eligibility. Petitioner's hearing request is **DISMISSED**.

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-Wayne-19-Hearings
EQAD Hearings
M. Schaefer
MOAHR
BSC4

Via-First Class Mail :

Petitioner
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[REDACTED] MI [REDACTED]