



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] MI [REDACTED]

Date Mailed: April 11, 2023  
MOAHR Docket No.: 23-001358  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 April 10, 2023, via Zoom. Petitioner was represented by his Authorized Hearing Representative, [REDACTED]. Also present on behalf of petitioner was [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

### **ISSUE**

Did the Department properly process Petitioner's application for Medicare Savings Program (MSP) and Food Assistance Program (FAP) benefits?

### **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 19, 2023, Petitioner submitted an application for FAP and MSP benefits.
2. On February 27, 2023, the Department denied Petitioner's application, for his failure to submit the requested verifications.
3. In March 2023, the Department re-registered Petitioner's application for benefits.
4. On March 8, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

5. As of the hearing date of April 10, 2023, Petitioner's January 19, 2023 application was still pending.

### **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).

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.

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. 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.

In this case, Petitioner submitted an application for MSP and FAP benefits on January 19, 2023. At the hearing completed on April 10, 2023, the Department testified that Petitioner's application had been reinstated, and was still pending. The Department also conceded that verifications that were submitted timely had not been reviewed by the Department.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (January 2023), p. 15. For MA benefits, the Department must certify approval or denial of the application within 45 days. BAM 115, p. 15. For FAP benefits, the SOP is 29 calendar days. BAM 115, p. 16.

The Department is beyond the SOP for FAP and MSP related to Petitioner's January 19, 2023 application. Therefore, the Department did not act in accordance with Department policy when processed Petitioner's FAP and MSP benefit application.

**DECISION AND ORDER**

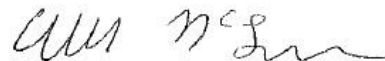
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it processed Petitioner's FAP and MSP benefit application.

Accordingly, the Department's decision 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. Complete the processing of Petitioner's MSP and FAP application.
2. If Petitioner is eligible for benefits, issue supplements in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

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**Ellen McLemore**  
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**  
Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
**MDHHS-Wayne-19-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
M. Schaefer  
EQADHearing

**Via-First Class Mail :**

**Petitioner**

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