



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-005591
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on October 11, 2023, via teleconference. Petitioner appeared and represented himself. Tom Jones, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) benefits?
2. Did MDHHS properly terminate Petitioner's Medicaid (MA) 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. Petitioner was an ongoing recipient of FAP benefits and MA coverage.
2. On September 1, 2023, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, p. 4).
3. On September 1, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP benefits would be closed, effective October 1, 2023, ongoing, due to excess income (Exhibit A, pp. 15-16). MDHHS also terminated Petitioner's MA

coverage; however, the effective date of the termination is not clear from the record.

4. On September 8, 2023, Petitioner requested a hearing to dispute the termination of his FAP and MA benefits (Exhibit A, p. 3).

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, MDHHS terminated Petitioner's FAP benefits and MA coverage due to excess income. However, MDHHS did not introduce any FAP or MA budget calculations at the hearing. Additionally, MDHHS did not include a health care coverage determination notice, which would have shown the reason for the MA termination and the effective date of the termination.

MDHHS testified that Petitioner was over the income limit for both programs based on his income from Southfield Business Services (Employer). Petitioner disputed the income calculation and testified that he informed MDHHS that his hours at Employer were recently reduced.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgment. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification, or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.* Before determining program eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and information from another source. *Id.*, p. 9.

The record shows that there was a discrepancy between Petitioner's reported income and the income that MDHHS budgeted from the Work Number Report, a third-party source. MDHHS is required to verify information with the client when there is a discrepancy and give the client a reasonable opportunity to resolve any discrepancies between the client's statements and information from another source. It failed to show that it did so in this case. Additionally, MDHHS did not introduce FAP or MA budgets to show that it properly calculated Petitioner's income for either benefit program.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's FAP and MA benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reinstate Petitioner's FAP case and redetermine Petitioner's eligibility for FAP benefits, effective September 1, 2023, ongoing;
2. Issue supplemental payments for any FAP benefits that Petitioner was eligible to receive but did not, from September 1, 2023, ongoing;
3. Reinstate Petitioner's MA case and redetermine Petitioner's MA eligibility from the date of the most recent termination;
4. If eligible, provide Petitioner with MA coverage from the date of the termination, ongoing; and

5. Notify Petitioner of its decision(s) in writing.



LJ/nr

Linda Jordan
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

Linda Gooden
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Interested Parties

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BSC4
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D. Smith
EQAD
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Via-First Class Mail :

Petitioner

[REDACTED]
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