



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]  
[REDACTED], MI [REDACTED]

Date Mailed: November 15, 2023  
MOAHR Docket No.: 23-006608  
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 November 6, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, supervisor.

### **ISSUES**

The first issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) 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 June 2023, Petitioner was an ongoing recipient of FAP and MA benefits.
2. As of June 2, 2023, Petitioner was not a resident of a Long-Term Care (LTC) facility.
3. On June 1, 2023, MDHHS mailed Petitioner a Mid-Certification Contact Notice (MCCN) for FAP benefits.

4. On June 5, 2023, MDHHS mailed Petitioner a Long-Term Care Redetermination form for MA benefits.
5. On August 10, 2023, MDHHS sent Petitioner notice of a termination of FAP benefits beginning September 2023 due to Petitioner's failure to return the MCCN.
6. On August 18, 2023, MDHHS sent Petitioner notice of an MA termination beginning September 2023 due to Petitioner's failure to return redetermination documentation.
7. As of September 2023, MDHHS had not sent Petitioner a benefit application or a standard Redetermination form for MA benefits.
8. As of September 2023, Petitioner failed to return the MCCN to MDHHS but was still receiving FAP benefits.
9. On September 25, 2023, Petitioner requested a hearing to dispute the terminations of FAP and MA benefits.

### **CONCLUSIONS OF LAW**

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated August 18, 2023, stated that Petitioner's MA eligibility would end October 2023 due to Petitioner's failure to return redetermination documents. Exhibit A, pp. 15-18.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022) p. 1. The redetermination/renewal process includes a thorough review of all eligibility factors.<sup>1</sup> *Id.* For all programs, MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A redetermination/review packet is considered complete when all sections of the Redetermination form, including the signature section, are completed. *Id.* p. 11. MDHHS

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<sup>1</sup> For Medicaid, an annual review of all eligibility programs is called a "renewal". For all other programs, the process is a "redetermination". BAM 210 (October 2019) p. 1.

sends timely notice of the negative action if documents are not timely returned. *Id.*, p. 17. MA benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. *Id.*, p. 4. MA redetermination forms may include any of the following: Redetermination (aka DHS-1010), Medicaid Application (Patient of Nursing Facility) (aka DHS-4574), or an MDHHS-1171-HCC.

MDHHS contended it properly sent Petitioner a Redetermination form for MA benefits, and that Petitioner timely failed to complete and return the form. Petitioner acknowledged receiving the Redetermination form and failing to return it to MDHHS before the date of MA closure. However, an implied requirement of MDHHS policy is that it send clients the proper redetermination documents. MDHHS sent Petitioner a Long-Term Care Redetermination for MA benefits on June 5, 2023. The evidence suggested Petitioner briefly spent time in a LTC facility in April 2020 but not since. Thus, MDHHS should have sent Petitioner a standard redetermination form (i.e., a DHS-1010) rather than a form specifically for persons in LTC facilities. Though Petitioner received the Long-Term Care Redetermination, she reasonably refused to complete it because she did not reside in a LTC facility.<sup>2</sup> MDHHS was aware of its error, but no evidence suggested proper efforts to rectify it.<sup>3</sup>

Given the evidence, MDHHS failed to mail Petitioner proper redetermination documents for MA benefits. Thus, MDHHS improperly terminated Petitioner's MA benefits beginning September 2023 due to Petitioner's failure to return redetermination documents. As a remedy, Petitioner is entitled to a reopening of MA benefits and a mailing of the proper redetermination documentation.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a termination of FAP benefits. Exhibit A, pp. 3-4. It was not disputed that MDHHS sent Petitioner notice of a FAP closure beginning September 2023 due to Petitioner's failure to return a MCCN. Inexplicably, it was also not disputed that Petitioner received ongoing FAP benefits through the hearing date. Petitioner's continuing receipt of FAP benefits suggested that the reason for closure was cured; however, MDHHS testified that Petitioner only erroneously received ongoing FAP benefits. Based on MDHHS's insistence that it had proper reason to terminate FAP benefits, the analysis will proceed to determine if the basis for closure was proper.

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<sup>2</sup> Despite Petitioner's circumstances, completion of the form might have been the simplest way to resolve the dispute; however, it is uncertain if MDHHS would have accepted the form.

<sup>3</sup> In fact, MDHHS initially testified it send Petitioner an application during the pre-hearing conference on October 3, 2023, before changing its testimony to only offering to send Petitioner an application.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2021) p. 3. The MDHHS database sends a DHS-2240-A, Mid-Certification Contact Notice (MCCN), for groups assigned a 24-month FAP benefit period during the 11th month of their benefit period. *Id.*, p. 11. A MCCN is considered complete when all the sections (including the signature section) are answered completely and required verifications are returned. *Id.* If the DHS-2240A is not logged by the 10th day of the 12<sup>th</sup> month, the MDHHS database will generate a DHS-2240B, Potential Food Assistance (FAP) Closure, to the client. *Id.*, p. 13. This reminder notice explains that the client must return the DHS-2240A and all required verifications by the last day of the month, or the case will close. *Id.*

MDHHS presented a MCCN sent to Petitioner on June 1, 2023. Exhibit A, pp. 19-23. Documentation of Petitioner's submissions notably did not include Petitioner returning the MCCN to MDHHS before September 2023. Exhibit A, pp. 11-14. Petitioner did not allege that she returned the MCCN or any other acceptable documentation. Petitioner's hearing request argued that MDHHS's failure to send proper MA redetermination documentation prevented Petitioner from returning FAP redetermination documentation. Petitioner's argument was unpersuasive because the FAP redetermination documents are different and were separately sent by MDHHS.

Petitioner also testified she did not receive the MCCN. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The MCCN presented by MDHHS included Petitioner's proper mailing address. Petitioner presented no evidence other than her uncorroborated testimony that she did not receive the MCCN. The evidence established an unrebutted presumption of receipt.

The evidence established that Petitioner failed to return a MCCN to MDHHS before September 2023. Thus, MDHHS could have terminated Petitioner's FAP eligibility beginning September 2023 if Petitioner's FAP eligibility did not continue.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning September 2023. Concerning FAP benefits, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

(1) Reopen Petitioner's MA eligibility beginning September 2023 subject to the finding that MDHHS failed to send Petitioner proper redetermination documents and/or an application; and

(2) Issue supplements and notice, if any, in accordance with policy.

Concerning MA benefits, the actions taken by MDHHS are **REVERSED**.

CG/nr



**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**

Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
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**Interested Parties**

Wayne 17 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
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