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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: November 22, 2023
MOAHR Docket No.: 23-006915
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 16, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Juanita Muñoz, hearings facilitator.

ISSUE

The 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 May 2023, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through May 2023.
2. On May 16, 2023, Petitioner returned redetermination documents to MDHHS.
3. On an unspecified date, MDHHS terminated Petitioner's FAP eligibility beginning June 2023; notice of the termination was not mailed to Petitioner.
4. On September 29, 2023, MDHHS terminated Petitioner's Medicaid eligibility beginning November 2023.

5. On an unspecified date, MDHHS approved Medicaid and MSP for Petitioner beginning November 2023.
6. On October 10, 2023, Petitioner requested a hearing to dispute the terminations of MA and FAP benefits.

CONCLUSIONS OF LAW

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*. 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 MA eligibility. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated September 29, 2018, stated that Petitioner's Medicaid eligibility would end November 2023 due to Petitioner not being disabled. Exhibit A, pp. 7-9. Because Petitioner additionally received MSP benefits, it is assumed that Petitioner's MSP eligibility may have also closed November 2023.

During the hearing, MDHHS explained the notice of closure was sent to Petitioner concerning duplicate Medicaid benefit that was erroneously opened. MDHHS's testimony was consistent with an email from the Bridges Resource Center stating that Petitioner received ongoing Medicaid and MSP benefits under a different case number.¹ Exhibit A, p. 10. MDHHS also presented documents verifying Petitioner's ongoing Medicaid and MSP eligibility with a review month of March 2024. Exhibit A, p. 15 and Exhibit B, p. 1.

The evidence verified that Petitioner did not experience a loss of Medicaid and/or MSP eligibility. Thus, Petitioner's dispute concerning Medicaid and MSP benefits is properly dismissed.

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).

¹ The Bridges Resource Center is a unit of MDHHS which resolves conflicts in the MDHHS database.

Petitioner also requested a hearing to dispute a termination of FAP benefits. It was not disputed that MDHHS terminated Petitioner's FAP eligibility beginning June 2023. MDHHS testified it ended Petitioner's FAP eligibility due to excess income.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action.² BAM 220 (April 2023) p. 2. The notice of case action is printed and mailed centrally from the consolidated print center. *Id.* A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. *Id.*

MDHHS's hearing packet contained no notice of closure. During the hearing, MDHHS was unable to locate a notice of closure. MDHHS was unable to provide a proper reason why a notice of closure was not sent. The failure to send proper notice of FAP closure justifies an administrative hearing remedy for MDHHS to reprocess FAP eligibility.³

² There are occasions when notice of FAP closure is not required. Such occasions include the following: a negative action related to information on a child support report, reliable information indicates the group will leave the state, and/or changes reported on a Semi-Annual Contact Report. BAM 220 (April 2023) pp. 4-5. None of these occasions are applicable to the present case.

³ MDHHS presented FAP budgets from September 2023 indicating Petitioner's income exceeded the FAP income limit. Exhibit A, pp. 11-14. During the hearing, the budgets were perfunctorily discussed. The budgets are deemed to be improper because they are from a benefit month occurring three months after the month of closure.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS favorably resolved Petitioner's dispute concerning the closure of Medicaid and MSP benefits beginning October 2023. Concerning MA and MSP, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility beginning June 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning June 2023, subject to the finding that MDHHS failed to send proper notice of closure; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

