



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: February 8, 2024
MOAHR Docket No.: 23-008116
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 February 5, 2024 from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Shana Bush, Eligibility Specialist.

As a preliminary matter, during the hearing, Exhibit B was admitted into the record on behalf of the Department. The Department representative was instructed to submit the November 22, 2023, Health Care Coverage Determination Notice to the undersigned Administrative Law Judge following the closure of the hearing record. As of the issuance of this Hearing Decision, Exhibit B had not been submitted, and thus, will be stricken from the record.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) 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 or around [REDACTED] 2023, Petitioner submitted an application requesting FAP benefits. The Department conceded that although the application was

received, it was not registered or processed and thus, an eligibility decision was not made.

2. Petitioner was an ongoing recipient of MA benefits. In connection with a redetermination, Petitioner's eligibility for MA benefits was reviewed.
3. On or around September 23, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, informing her that effective November 1, 2023, MA benefits for herself and her household members would be terminated due to a failure to return requested verifications. (Exhibit A, pp. 144-148)
4. On or around October 19, 2023, Petitioner submitted a second application for FAP benefits. The application was registered and processed, and October 20, 2023, Petitioner was approved for FAP benefits.
5. On or around November 13, 2023, Petitioner requested a hearing disputing the Department's actions with respect to the closure of her MA case and the failure to process her [REDACTED] 2023, FAP application.
6. On or around November 22, 2023, the Department issued a Health Care Coverage Determination Notice, advising her that effective November 1, 2023, she and her household members were approved for MA benefits.

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).

MA

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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (March 2021), pp. 1-2. Moreover, BAM 600, pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing about a denial of an application and/or supplemental payments; reduction in the

amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp. 4-6.

In this case, Petitioner requested a hearing on November 13, 2023, disputing the closure of her MA case effective November 1, 2023. The Department representative testified, and Petitioner confirmed that on or around September 23, 2023, a Health Care Coverage Determination Notice was issued, advising Petitioner of the closure of her MA case. The Department representative testified that after receiving Petitioner's request for hearing, it reinstated Petitioner's MA case effective November 1, 2023, approving Petitioner and her household members for MA coverage. The Department issued a Health Care Coverage Determination Notice on November 22, 2023, advising Petitioner of the MA approval. Petitioner confirmed that she received the November 22, 2023, Health Care Coverage Determination Notice. Although Petitioner testified that she was verbally informed by a Department worker that her MA case was only reinstated because she filed a hearing request, Petitioner confirmed that she has not received any further negative action notices from the Department regarding her MA case. The Department representative also testified that a review of Petitioner's case in Bridges did not show that eligibility is pending the outcome of the hearing.

The evidence presented established that prior to the hearing, the Department corrected the action that Petitioner requested a hearing to dispute by reinstating the MA case effective November 1, 2023. Therefore, there remains no issue left to be resolved with respect to Petitioner's MA request for hearing. As such, Petitioner's hearing request regarding the MA program is **DISMISSED**.

FAP

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.

In this case, Petitioner requested a hearing disputing the Department's failure to process her [REDACTED] 2023, application for FAP benefits. Because it was established that Petitioner was approved for FAP benefits beginning October 19, 2023, ongoing, Petitioner confirmed that at issue, is the lapse in FAP benefits from September 5, 2023, through October 19, 2023.

Additionally, when the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110 (October 2022), pp.4-9. Once an application is registered, the Department must certify eligibility results for each program requested within the applicable standard of promptness (SOP). The SOP begins the date the

department receives an application/filing form, with minimum required information. The expedited SOP due date is six calendar days after the application date and 29 calendar days after a regular FAP application is received. BAM 115 (January 2023), pp. 15-17. The Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action. A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. After processing an initial application, the Department will notify clients of the approval or denial. BAM 115; BAM 220.

At the hearing, the Department confirmed that Petitioner's FAP application was received on [REDACTED] 2023. Upon review of its Bridges system, the Department further confirmed that as of the hearing date, the application had not been fully processed and there has been no eligibility decision issued. The Department provided no valid explanation for the failure to timely process Petitioner's [REDACTED] 2023, FAP application.

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 failed to process Petitioner's FAP application.


DECISION AND ORDER

Accordingly, the hearing request with respect to MA is **DISMISSED** and the Department's FAP 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. Register and process Petitioner's [REDACTED] 2023, FAP application;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not, if any, from [REDACTED] 2023, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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
Vivian Worden
Macomb County DHHS Mt. Clemens Dist.
44777 Gratiot
Clinton Township, MI 48036
MDHHS-Macomb-12-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Petitioner

[REDACTED]
MI [REDACTED]