

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]
[REDACTED], MI [REDACTED]

Date Mailed: January 12, 2024
MOAHR Docket No.: 23-008665
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 January 4, 2024, via teleconference. Petitioner appeared and represented herself. Tiffany Robinson, Assistance Payments Worker, and Nicole Taylor, 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 process Petitioner's Medicaid (MA) 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. Petitioner was an ongoing recipient of FAP and MA benefits on behalf of her household.
2. On October 3, 2023, Petitioner submitted a Redetermination for FAP and MA (Exhibit A, p. 7).
3. On October 28, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of employment income for three different employers, loss of

employment and other self-employment (Exhibit A, pp. 15-16). The VCL indicated that verification was due by November 7, 2023 (Exhibit A, p. 15).

4. On November 18, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP case was closed, effective November 1, 2023 ongoing, for failure to return requested verifications and failure to cooperate with the Office of Child Support (OCS) (Exhibit A, pp. 17-18).
5. On November 20, 2023, Petitioner requested a hearing to dispute MDHHS' decisions regarding her FAP and household MA benefits (Exhibit A, pp. 3-5).

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)

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.

In this case, MDHHS terminated Petitioner's FAP benefits for failure to verify certain information and failure to cooperate with child support requirements.

Regarding the failure to cooperate with child support requirements, MDHHS did not provide any information or any testimony to show the basis for this claim. As a condition of FAP eligibility, custodial parents must comply with all requests by OCS for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (July 2023) p. 1. Failure to cooperate without good cause results in disqualification, which may include removing a group member or the denial or closure of program benefits. BEM 255, p. 2.

At the hearing, Petitioner testified that her grandson lives in her household and that she was not contacted by the Office of Child Support (OCS) concerning his custody. MDHHS did not present any evidence to the contrary. Therefore, MDHHS has not shown that this was a valid reason for terminating Petitioner's FAP benefits.

Regarding the failure to verify information, MDHHS alleged that Petitioner did not comply with the VCL requesting proof of her employment and loss of employment. MDHHS is required to obtain verification when it is required by policy or information is

unclear or incomplete. BAM 130 (January 2023), 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 judgement. *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 another source. *Id.*, p. 9.

Petitioner credibly testified that she was attempting to comply with MDHHS' requests but was having difficulty obtaining the documentation necessary. Regarding the self-employment income, she sent MDHHS a signed statement attesting that she no longer had self-employment income. MDHHS told her that the statement was insufficient. In response, Petitioner attempted to contact the employer and eventually sent an email from the employer stating that the employment had ended. Petitioner further testified that the self-employment ended in August 2023.

Based on Petitioner's testimony, the record shows that she was attempting to cooperate with MDHHS' requests for information. No evidence was presented that Petitioner refused to provide the requested information. Additionally, MDHHS failed to establish that it properly assisted Petitioner after she indicated that she was having trouble obtaining the information.

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 benefits.

Medicaid (MA)

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, Petitioner requested a hearing regarding her son's MA coverage. However, Petitioner testified at the hearing that the issue with her son's MA coverage had been resolved. He was transferred to a separate MA case and there was no loss in coverage. Petitioner testified that she no longer wished to proceed with the hearing because the issue had been resolved and requested to withdraw her request for hearing on this issue. MDHHS had no objection. The request for hearing on the MA issue was withdrawn on the record.

Pursuant to the withdrawal, the matter involving MA is, hereby, **DISMISSED**.

DECISION AND ORDER

The matter regarding MA is **DISMISSED**, pursuant to Petitioner's withdrawal of the hearing request at the hearing.

MDHHS' decision regarding FAP 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 her eligibility for FAP, effective November 1, 2023 ongoing;
2. Issue supplemental payments for any FAP benefits that Petitioner was eligible to receive but did not, from November 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
Administrative Law Judge

