



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: January 26, 2024  
MOAHR Docket No.: 23-009467  
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 on January 18, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Juanita Munoz, hearings facilitator.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) 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. On September 5, 2023, MDHHS mailed Petitioner redetermination documents concerning FAP and MA benefits. Petitioner's due date to return the documentation was October 16, 2023.
2. On October 15, 2023, MDHHS received Petitioner's redetermination documentation.
3. On an unspecified date, Petitioner's FAP eligibility ended.

4. On November 17, 2023, MDHHS initiated termination of Petitioner's MA eligibility beginning December 2023 due to Petitioner's alleged failure to return redetermination documents.
5. On December 6, 2023, Petitioner requested a hearing to dispute the closure of FAP and MA benefits.

### **CONCLUSIONS OF LAW**

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).

Petitioner requested a hearing, in part, to dispute a termination of FAP benefits.<sup>1</sup> Exhibit A, pp. 3-4. During the hearing, Petitioner testified that she no longer needed a hearing to dispute FAP eligibility because MDHHS favorably resolved her hearing request. Concerning FAP benefits, Petitioner's hearing request is dismissed.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing dispute a termination of MA benefits for herself, her spouse, and three children. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated November 17, 2023, stated that Petitioner's MA eligibility would end December 2023 due to a failure to timely return redetermination documents. Exhibit A, pp. 26-28. Though the notice was silent as to the MA eligibility of Petitioner's spouse and three children, it will be assumed that their MA eligibility also ended December 2023 due to a failure to timely return redetermination documents.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022) p. 1. The process includes a thorough review of all eligibility factors.<sup>2</sup> *Id.* For all programs, the 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 form is

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<sup>1</sup> Petitioner submitted a request to withdraw her hearing request which was received by the undersigned shortly after the hearing. Petitioner's written request to withdraw is considered denied as she instead chose to proceed with her hearing.

<sup>2</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.

considered complete when all sections are completed. *Id.* p. 11. MDHHS sends timely notice of closure 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.

MDHHS mailed Petitioner FAP and MA redetermination documents on September 5, 2023. Exhibit A, pp. 7-16. The documents warned Petitioner to return the documents by October 16, 2023. MDHHS acknowledged it timely received Petitioner's redetermination documents on October 15, 2023: one day before the due date.<sup>3</sup> Exhibit A, pp. 1-2.

The evidence established that Petitioner timely returned redetermination documents. Thus, the closure of MA benefits due to Petitioner's alleged failure to timely return redetermination documents was improper. As a remedy, Petitioner is entitled to a reinstatement of MA benefits beginning December 2023. Though MDHHS testimony claimed MA eligibility benefits were active for Petitioner's spouse and three children, corroboration was not provided. Thus, a reinstatement of benefits for Petitioner, her spouse, and three children is proper.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning a termination of FAP benefits. Concerning FAP benefits, 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 MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstatement and reprocess MA benefits beginning December 2023 for Petitioner, her spouse and three children; and
- (2) Issue supplements and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr

  
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**Christian Gardocki**  
Administrative Law Judge

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<sup>3</sup> Petitioner's timely returned redetermination and supporting documents were presented. Exhibit A, pp. 29-38.

**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**  
Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209  
**MDHHS-Wayne-41-  
Hearings@michigan.gov**

**Interested Parties**  
Wayne 41 County DHHS  
BSC4  
M. Schaefer  
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MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
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[REDACTED], MI [REDACTED]