



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: February 7, 2024
MOAHR Docket No.: 23-009836
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 January 31, 2024. Petitioner appeared and was unrepresented. [REDACTED] [REDACTED] Petitioner's friend, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Rebecca Scott, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (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. As of November 2023, Petitioner was an ongoing MA benefit recipient with a benefit period certified through December 2023.
2. On an unspecified date, MDHHS requested verification of Petitioner's income by an unspecified date.
3. On an unspecified date before the due date, Petitioner returned to MDHHS verification of income.

4. On December 9, 2023, MDHHS terminated Petitioner's MA eligibility, effective January 2024, due to Petitioner's alleged failure to verify income.
5. On December 19, 2023, Petitioner requested a hearing to dispute the termination of MA benefits. Petitioner also requested a hearing to dispute a termination of Food Assistance Program (FAP) benefits beginning November 2023.
6. On January 31, 2024, Petitioner verbally withdrew her dispute concerning FAP 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 beginning November 2023. Exhibit A, pp. 3-4. During the hearing, Petitioner acknowledged that MDHHS has since resolved her dispute and that a hearing is no longer needed concerning FAP benefits. Based on Petitioner's withdrawal, the hearing request disputing FAP benefits will be 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 to dispute a termination of MA benefits. Exhibit A, pp. 3-4. A Health Coverage Determination Notice dated December 9, 2023, stated that MDHHS terminated Petitioner's MA eligibility beginning January 2024 due to Petitioner's failure to verify income. Exhibit A, pp. 6-8.

Generally, income must be verified at redetermination.¹ For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 2. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or

¹ See BEM 501, 502, and 503 for specifics of the types of income that must be verified.

- The time period given has elapsed. *Id.*

Without providing specifics, MDHHS testimony acknowledged that Petitioner timely returned proof of income.² MDHHS testimony also acknowledged that Petitioner's timely submission rendered the termination of MA benefits to be improper. MDHHS contended that it corrected its error by reprocessing Petitioner's MA eligibility beginning January 2024. MDHHS credibly testified that Petitioner's MA eligibility is pending for the return of recently requested asset verifications.

MDHHS's acknowledgement of its error, along with its efforts to correct the error are appreciated. However, the remedy for correcting an improperly closed MA benefit case is benefit reinstatement. In other words, Petitioner's MA eligibility should be active and reinstated, not pending. As an administrative remedy, MDHHS will be ordered to fully reinstate Petitioner's MA eligibility; MDHHS can terminate Petitioner's MA eligibility after reinstatement if it determines that Petitioner is ultimately ineligible due to assets or any other reason.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew the 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) Reinstate Petitioner's MA eligibility, effective January 2024, subject to the finding that Petitioner did not fail to timely verify income; and
- (2) Issue benefit supplements and notice, if any, in accordance with policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

² Income verifications were presented as Exhibit A, pp. 22-30 and 38-46.

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
EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]