



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: March 1, 2024
MOAHR Docket No.: 24-000061
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 20, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Andrea Edwards, Hearing Coordinator.

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-97.

ISSUE

Did the Department properly determine Petitioner’s eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) 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 December ██████ 2023, asset detection showed that Petitioner was a joint account holder for a Certificate of Deposit (CD) at Fifth Third bank in the amount of \$██████████ from March 2023 to August 2023. (Exhibit A, pp. 5-6)
2. On December ██████ 2023, a Verification Checklist was issued to Petitioner requesting verification of the CD with Fifth Third bank with a due date of December 21, 2023. The comments indicated Petitioner was to provide a bank statement for the CD at Fifth Third bank including the maturity date and early withdrawal fees. (Exhibit A, pp. 7-8)

3. On December █ 2023, Petitioner submitted a statement from Fifth Third bank stating the CD account was closed as of August 11, 2023. (Exhibit A, p. 9)
4. The Department denied FAP and MA based on failing to verify where the \$█ from the CD was spent, only that it was cashed out and this amount exceeds the asset limit. (Exhibit A, p. 1, 10, and 15)
5. On December █ 2023, a Notice of Case Action and Health Care Coverage Determination Notice were issued to Petitioner closing the FAP cases effective February 1, 2024 and closing the MA case effective November 1, 2023. (Exhibit A, pp. 10-18)
6. On January 10, 2024, Petitioner submitted a hearing request contesting the Department's determination and showing a vehicle was purchased for Petitioner and the rest of the money from the CD was kept by the other CD owner. (Exhibit A, pp. 1, 4, and 94-96)

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) [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.

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.

In general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain

verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, October 1, 2023, pp. 1-4.

For FAP, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time-period given has elapsed and the client has not made a reasonable effort to provide it. For FAP if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. The Department is to explain to the client they will not be given an extension, and their case will be denied once the Verification Checklist due date is passed. Also, their eligibility will be determined based on their compliance date if they return required verifications. The Department is to reregister the application if the client complies within 60 days of the application date. BAM 130, pp. 7-8.

For MA, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the Department can extend the time limit up to two times when specific conditions are met. Verifications are considered timely if received by the date they are due. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

In this case, a December █ 2023, asset detection showed that Petitioner was a joint account holder for a CD at Fifth Third bank in the amount of \$█ from March 2023 to August 2023. (Exhibit A, pp. 5-6).

On December █ 2023, a Verification Checklist was issued to Petitioner requesting verification of the CD with Fifth Third bank with a due date of December 21, 2023. The comments indicated Petitioner was to provide a bank statement for the CD at Fifth Third bank including the maturity date and early withdrawal fees. (Exhibit A, pp. 7-8).

Petitioner made a reasonable attempt to provide the requested verification. On December █ 2023, Petitioner submitted a statement from Fifth Third bank stating the CD account was closed as of August 11, 2023. (Exhibit A, p. 9).

The Department denied FAP and MA based on failing to verify where the \$█ from the CD was spent, only that it was cashed out and this amount exceeds the asset limit. (Exhibit A, p. 1, 10, and 15). On December █ 2023, a Notice of Case Action and Health Care Coverage Determination Notice were issued to Petitioner closing the FAP cases effective February 1, 2024 and closing the MA case effective November 1, 2023. (Exhibit A, pp. 10-18).

However, upon learning that the CD had been cashed out, the Department never requested verification of how the money from the CD was spent. The Hearing Coordinator

noted that the Department cannot grant an extension to a verification checklist due date for FAP. However, extensions can be granted for MA. Further, this would have been a new request for different information than what was requested on the December 11, 2023 Verification Checklist.

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 determined Petitioner's eligibility for FAP and MA benefits.

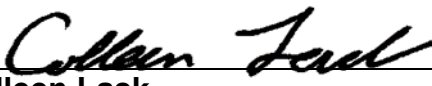
DECISION AND ORDER

Accordingly, the Department's 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. Redetermine Petitioner's eligibility for FAP and MA as of the November 1, 2023 MA and February 1, 2024 FAP effective dates in accordance with policy. This would include allowing Petitioner the opportunity to provide any verifications that may still be needed.

CL/dm



Colleen Lack
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
Gary Leathorn - 74
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EQADHearings

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Via-First Class Mail :

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