



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: April 22, 2024
MOAHR Docket No.: 24-001558
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 April 15, 2024. Petitioner was present and represented by Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Tiffany Dixon, Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Petitioner's request for Food Assistance Program (FAP), Medical Assistance (MA) and Medicare Savings Program (MSP) 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. Petitioner is [REDACTED] years old and resides in Michigan with his grandmother, [REDACTED].
2. On [REDACTED] 2023, Petitioner applied for FAP and MA benefits. Exhibit A, pp. 11-18. Petitioner's November 2023 application was assigned Department [REDACTED].

3. On [REDACTED] 2023, Petitioner's Authorized Representative (AR) applied for FAP and MA benefits. Exhibit B, pp. 13-20. AR's [REDACTED] 2024 application was assigned Department case number [REDACTED]
4. Petitioner has two cases with the Department.
5. The following actions occurred in case number [REDACTED]
 - a. On November 22, 2023, the Department issued a Health Care Coverage Determination Notice denying Petitioner MA coverage from November 1, 2023, ongoing for failing to return a supplemental questionnaire to the Department; for currently receiving supplemental security benefits and not being included in the group; and for excess income exceeding MSP limits. Exhibit A, pp. 5-10.
 - b. On December 28, 2023, the Department issued a Verification Checklist (VCL) concerning FAP. The VCL stated that the Department needed information to establish eligibility and had been unable to contact Petitioner. The VCL requested Petitioner provide a current address or phone number. Exhibit A, pp. 19-21.
 - c. On January 9, 2024, the Department issued a Health Care Coverage Determination Notice denying Petitioner MSP coverage from November 1, 2023 to November 30, 2023, for excess income and failing to return information requested by the Department. Further, the Department denied MSP coverage from February 1, 2024 ongoing for failing to return information requested by the Department. Exhibit A, pp. 22-24.
 - d. On January 9, 2024, the Department issued a Notice of Case Action closing Petitioner's FAP case from February 1, 2024 ongoing because the Department was unable to locate the household and verification was not returned. Exhibit A, pp. 25-28.
 - e. On February 16, 2024, the Department received Petitioner's hearing request disputing the Department's actions denying FAP, MA and MSP benefits. Exhibit A, pp. 3-4.
6. The following actions occurred in case number [REDACTED]
 - a. On February 21, 2024, the Department issued a Notice of Case Action denying FAP benefits for January 23, 2024 to January 31, 2024 because Petitioner was eligible for FAP in another case. The Department approved FAP benefits at \$82.00 per month for February 1, 2024 to January 31, 2026. Exhibit B, pp. 1-5.
 - b. On February 21, 2024, the Department issued a Health Care Coverage Determination Notice approving Petitioner for full coverage MA AD-Care for

January 1, 2024, ongoing and MSP-QMB coverage for February 1, 2024, ongoing. The Notice indicated that Petitioner was not eligible for MSP coverage for January 1, 2024 to January 31, 2024 because Petitioner had full Medicaid coverage and Petitioner was eligible for this program in another case. Exhibit B, pp. 9-12.

7. On April 15, 2024, Petitioner's hearing was held.

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 this case, the Department denied Petitioner's November 2023 application for FAP, MA and MSP benefits for failure to return verification of residency and for income exceeding the limits of MSP.

The Department explained that it had initially denied Petitioner FAP because Petitioner had failed to verify his residency. The Department is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, the Department must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. The Department 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 the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, the Department must offer to assist the individual in the gathering of such information. *Id.*, p. 1. If neither the client nor the local office can obtain verification despite a reasonable

effort, the Department must use the best available information. *Id.* If no evidence is available, the Department must use its best judgement. *Id.* The Department 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.* Before determining program eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and another source. *Id.*, p. 9.

At the hearing, the Department testified that Petitioner's case was audited when there was a discrepancy noticed between Petitioner's address on the State Online Query (SOLQ), the database from which the Department accesses clients' social security information, which listed an address in Ohio, and the Michigan address Petitioner listed on his application. The Department testified that it issued a VCL regarding residency for FAP eligibility on December 28, 2023, with proofs due by January 8, 2024. Exhibit A, p.19. Petitioner did not provide verification of Michigan residency and the Department closed both the FAP and MA on January 9, 2024.

Notwithstanding the FAP case closure, the Department testified that Petitioner received FAP benefits for November 2023 for \$124.00; December 2023 for \$156.00; and January 2024 for \$156.00. Petitioner was then approved for monthly FAP benefits of \$82.00 for February 1, 2024 to January 31, 2026 under the subsequent Department case number [REDACTED] the case affiliated with Petitioner's grandmother. The AHR acknowledged receipt of FAP benefits. There was no lapse in benefits and, as a result, no negative action to address. BAM 600 (February 2024) p. 5. Therefore, the FAP portion of Petitioner's hearing request is **DISMISSED**.

Petitioner also disputed the denial of MA and MSP benefits. The November 22, 2023 Health Care Coverage Determination Notice notified Petitioner that he was ineligible for MA because he failed to return verifications and because he received supplemental security benefits and was not included in the group. The Department did not present any evidence in support of denying Petitioner's MA case.

The Department testified, but did not present into evidence, that it issued a VCL for MA regarding a checking account on November 22, 2023, and the VCL had a due date of December 4, 2023. The January 9, 2024, Health Care Coverage Determination Notice indicated two reasons for denial of MSP benefits for November 2023: income exceeds the limit for this program and failure to return verification. The Health Care Coverage Determination Notice also denied MSP coverage for February 1, 2024, ongoing for failure to return verification. Medicare Savings Programs (MSP) are SSI-related MA categories. BEM 165 (October 2022), p.1. There are three MSP programs and income eligibility limits apply. *Id.* Regarding the denial for income exceeding program limits, the annual income used for determining coverage was \$12,180.00 (\$1,015.00 per month). Exhibit A, p. 23. This monthly income amount is below all MSP program eligibility limits. See RFT 242 (April 2024). There was no testimony or evidence submitted at the hearing showing that Petitioner's income exceeds MSP program limits. The Department did not act in accordance with policy when it denied MSP benefits for income exceeding the limit for MSP for November 2023.

Regarding failure to return verifications, in MA cases, if the client cannot provide the verification despite a reasonable effort, policy provides for an extension of the time limit up to two times. BAM 130, p. 8. The Department indicated that Petitioner returned a bank statement on December 5, 2023, one day beyond the due date, but the Department did not issue the Health Care Coverage Determination Notice denying MSP coverage until January 9, 2024, after the verification was received. Therefore, the Department did not act in accordance with Department policy when it denied Petitioner's MA and MSP coverage for failing to return a verification.

The Department testified that it had resolved this issue and presented a Health Care Coverage Determination Notice dated February 21, 2024 showing that Petitioner was approved for full-coverage MA for January 2024 ongoing and for MSP under the Qualified Medicare Beneficiary (QMB) program for February 2024 ongoing. While the Department testified that in this case Petitioner also had MSP coverage effective for December 2023 and January 2024, there was no evidence submitted establishing MSP coverage for November 2023, December 2023 or January 2024. Further, it was not established that Petitioner had MA coverage for the months of November 2023 and December 2023. The Department did not submit any documentary evidence supporting its testimony, nor did the Health Care Coverage Determination Notices provide evidence of coverage for that time period.

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 denied Petitioner MA and MSP benefits.

DECISION AND ORDER

Accordingly, the hearing request for the FAP case is **DISMISSED** and Department's decision in the MA and MSP case 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 MA and MSP benefits for November 2023 to January 2024.
2. If Petitioner is eligible, provide Petitioner with MA and MSP benefits for each eligible month for November 2023 to January 2024.
3. Notify Petitioner of its decision in writing.



Julia Norton
Administrative Law Judge

JN/ml

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

Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180

MDHHS-Wayne-18-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
M Schaefer
EQAD

Via First Class Mail:

Authorized Hearing Rep.

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

Petitioner

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