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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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: April 12, 2024
MOAHR Docket No.: 24-002125
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 April 3, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, specialist.

ISSUES

The first issue is whether MDHHS properly processed Petitioner's application for Medical Assistance (MA) benefits.

The second issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) 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 [REDACTED] 2024, Petitioner applied for MA and FAP benefits for himself; his spouse, [REDACTED] (hereinafter, "Spouse"); and three children: [REDACTED] (Child1), [REDACTED] (Child2), and [REDACTED] (Child3). Petitioner's application reported ongoing earnings for Spouse.

2. On January 23, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting, among other items, Spouse's last 30 days of wages by February 2, 2024.
3. On January 31, 2024, MDHHS received biweekly earnings statements for Spouse dated January 12, 2024, and January 26, 2024.
4. On February 20, 2024, MDHHS denied Petitioner's application for FAP benefits due to Petitioner's alleged failure to verify wages for Spouse.
5. On February 28, 2024, Petitioner requested a hearing to dispute the failure of MDHHS to process MA eligibility. Petitioner additionally disputed the denial of FAP benefits.
6. As of April 3, 2024, MDHHS had not processed Petitioner's MA application.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute MA eligibility. Exhibit A, pp. 3-5. Petitioner applied for MA and FAP benefits on [REDACTED] 2024. Exhibit A, pp. 6-15. Petitioner assumed that MDHHS denied his MA application, though he testified he did not receive notice of denial. The evidence suggested that MDHHS failed to process Petitioner's application for MA benefits.

The standard of promptness (SOP) for processing applications begins the date that MDHHS receives an application or filing form, with minimum required information. BAM 115 (January 2024) p. 15. Generally, MDHHS is to certify program approval or denial of MA benefits within 45 days.¹ *Id.* Notices are generated automatically following approval or denial. *Id.*

As of Petitioner's hearing request date of February 28, 2024, MDHHS testimony acknowledged it had not yet processed Petitioner's application. Technically, Petitioner's hearing request was premature because Petitioner requested a hearing only 37 days after applying for benefits; thus, MDHHS had not yet violated its standard of promptness

¹ Exceptions include MA benefits based on disability (90 days) or pregnancy (15 days). *Id.*, pp. 15-16.

for MA applications. However, as of the hearing date, MDHHS still had not processed Petitioner's MA application despite the passage of 72 days since Petitioner applied for MA benefits. MDHHS provided no documentary evidence that Petitioner's application for MA benefits was ever processed.²

Based on the evidence, MDHHS failed to timely process Petitioner's application for MA benefits. As a remedy, MDHHS will be ordered to process Petitioner's application for MA benefits.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 6-15. A Notice of Case Action dated February 20, 2024, stated that Petitioner's application was denied due to Petitioner's alleged failure to verify Spouse's wages.³ Exhibit A, pp. 23-27.

For FAP benefits, wages are to be verified at application. BEM 501 (January 2024) p. 10. Generally, MDHHS is to use past income to prospect income for the future unless changes are expected. BEM 505 (October 2023) p. 6. MDHHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.*

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2023) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative 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. *Id.*

MDHHS sent Petitioner a VCL on January 23, 2024 requesting the "Last 30 days of earnings statements or check stubs" for Spouse. Exhibit A, pp. 16-18. Petitioner's due

² MDHHS testified that Petitioner and his family were approved for MA benefits on the date of the hearing; however, no documentary evidence was presented to support the testimony.

³ The notice also stated that someone not reported on the application as a household member was ineligible due to not being in the home; also, Child1 was ineligible due to being in student status. The above analysis does not address either issue because they were not disputed by Petitioner. Petitioner can dispute both or either issue upon MDHHS's reprocessing of FAP benefits.

date to return verification was February 2, 2024. On January 31, 2024, Petitioner returned to MDHHS biweekly earnings statements for Spouse dated January 12 and January 26, 2024. Exhibit A, pp. 21-22. MDHHS contended that Petitioner's submission was insufficient because the 30 days of income verified by Petitioner was not the 30-day period before application.

Petitioner's submission did not verify the last 30 days of wages for Spouse from the application or VCL date. The evidence did not indicate when Petitioner was interviewed; thus, it is unknown if Petitioner submitted 30 days of earning statements from the interview date. Accepting a literal interpretation of MDHHS policy, Spouse's earning statements were unsatisfactory verifications. Though the 30 days of wage verifications were unacceptable, the fault does not lie with Petitioner.

The biweekly earning statements for Spouse submitted by Petitioner covered January 2024. Notably, the VCL sent by MDHHS did not state which "last 30 days" of Spouse's earnings statements were needed. Petitioner's submission complies with interpreting "the last 30 days" as 30 days from the due date of the VCL, 30 days from the date that Petitioner submitted the verification, or the calendar month of the VCL request: each period is a reasonable interpretation. Because the VCL failed to clarify from which 30-day period that earning statements were needed, MDHHS failed in its requirement to inform Petitioner of the verifications required.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's application for MA benefits. Additionally, MDHHS improperly denied Petitioner's application requesting FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner's application dated [REDACTED] [REDACTED] 2024 requesting MA benefits;
- (2) Reregister and reprocess Petitioner's FAP benefit application dated [REDACTED] [REDACTED] 2024, subject to the finding that MDHHS failed to specify which 30 days of wage verification was needed for Spouse; and
- (3) Issue supplements and notice, if any, in accordance with policy

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

CG/nr



Christian Gardocki
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
Susan Noel
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26355 Michigan Ave
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Interested Parties
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Via-First Class Mail :

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