



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  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: May 30, 2024  
MOAHR Docket No.: 24-004239  
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 May 23, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Priya Johnson, supervisor.

### **ISSUES**

The first issue is whether Petitioner timely requested a hearing to dispute Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined 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. On July 12, 2023, MDHHS mailed Petitioner written notice of a termination of FAP benefits.
2. On January 4, 2024, MDHHS mailed Petitioner redetermination documents concerning MA benefits.
3. On [REDACTED] [REDACTED] 2024, Petitioner submitted to MDHHS an application for MA benefits.

4. On March 18, 2024, MDHHS terminated Petitioner's MA eligibility beginning April 2024 due to Petitioner's failure to return redetermination documents.
5. As of March 18, 2024, Petitioner had neither received nor applied for FAP benefits since July 2023.
6. On April 11, 2024, 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.

### **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 closure of FAP benefits. Exhibit A, pp. 3-5. Petitioner testified she last received FAP benefits one year earlier. MDHHS testified that the most recent written notice of FAP benefit closure sent to Petitioner was dated July 12, 2023.<sup>1</sup> A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. Petitioner requested a hearing 274 days later. Thus, Petitioner's hearing request was untimely and there is no administrative hearing jurisdiction for Petitioner's FAP dispute. Accordingly, Petitioner's hearing request concerning FAP benefits will be dismissed.<sup>2</sup>

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 eligibility. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated March 18, 2024, stated

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<sup>1</sup> If notice is not properly sent by MDHHS, then the 90-day period could be suspended. Petitioner testified that she might not have received written notice, but it was only because she failed to report an updated address to MDHHS. MDHHS cannot be faulted for Petitioner not receiving written notice if Petitioner failed to report an updated address.

<sup>2</sup> As discussed during the hearing, Petitioner was advised to reapply if FAP benefits are still needed.

that Petitioner's MA eligibility would end April 2024 due to a failure to timely return redetermination documents.<sup>3</sup> Exhibit A, pp. 6-8.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2024) p. 1. The process includes a thorough review of all eligibility factors.<sup>4</sup> *Id.* For all programs, the MDHHS mails a redetermination packet which includes a Redetermination form (DHS-1010) 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 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 contended it properly sent Petitioner a DHS-1010 for MA benefits on January 4, 2024. Exhibit A, p. 9. It was not disputed that Petitioner did not return the form by its due date of February 1, 2024 or by the end of the MA benefit period: March 31, 2024. However, MDHHS acknowledged it received an application for MA benefits from Petitioner on [REDACTED] 2024. MDHHS may accept an Assistance Application with program specific forms in lieu of a DHS-1010. BAM 210 (January 2024) pp. 8-9. MDHHS failed to explain why Petitioner's assistance application, submitted before the Redetermination form due date, could not be used to redetermine Petitioner's benefits.<sup>5</sup>

Given the evidence, MDHHS improperly failed to process Petitioner's MA application dated [REDACTED] 2024 as an acceptable redetermination form. As a result, MDHHS improperly terminated Petitioner's MA eligibility. As a remedy, Petitioner is entitled to a reinstatement of MA benefits beginning April 2024.

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<sup>3</sup> The notice also stated that Petitioner did not meet program requirements. MDHHS did not present any evidence suggesting this as a legitimate basis for MA benefit closure.

<sup>4</sup> For Medicaid, an annual review of all eligibility programs is also referred to as a "renewal". BAM 210 (January 2024) p. 1.

<sup>5</sup> Even if Petitioner's application did not include program specific forms, MDHHS could have requested the forms via Verification Checklist. *Id.*, p. 18

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely dispute a closure 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 April 2024, subject to the finding that Petitioner timely submitted to MDHHS on [REDACTED] 2024 an application in lieu of redetermination documents; and
- (2) Issue benefit 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

**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**

Yaita Turner  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033  
**MDHHS-Oakland-6303-  
Hearings@michigan.gov**

**Interested Parties**

Oakland 3 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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