



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 16, 2022
MOAHR Docket No.: 22-005224
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 December 7, 2022. The Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearing Facilitator. Department Exhibit 1, pgs. 1-34, was introduced and made a part of the record.

ISSUE

Did the Department properly determine the Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a recipient of FAP and MA benefits with a redetermination due.
2. On September 26, 2022, the Department received the Petitioner's Redetermination Application, DHS 1010.
3. On October 20, 2022, the Department Caseworker sent the Petitioner a Verification Checklist, DHS 3503, to submit the last 30 days of check stubs due October 31, 2022.
4. On October 25, 2022, the Department received verification of employment income from the Petitioner.

5. On October 27, 2022, the Department sent the Petitioner a Notice of Case Action, DHS 1605, that the Petitioner was eligible for FAP for the month of November 2022 for \$23 and from December 1, 2022, forward for \$65 per month for a household group size of one.
6. On October 27, 2022, the Department sent the Petitioner a Health Care Coverage Determination Notice, DHS 1606, that the Petitioner was eligible for MA under the Freedom to Work with an estimated premium of \$44.13 starting December 1, 2022, forward.
7. On November 4, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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 Petitioner was a recipient of FAP and MA benefits with a redetermination due. On September 26, 2022, the Department received the Petitioner's Redetermination Application, DHS 1010. On October 20, 2022, the Department Caseworker sent the Petitioner a Verification Checklist, DHS 3503, to submit the last 30 days of check stubs due October 31, 2022.

On October 25, 2022, the Department received verification of employment income from the Petitioner. On October 27, 2022, the Department sent the Petitioner a Notice of Case Action, DHS 1605, that the Petitioner was eligible for FAP for the month of November 2022 for \$23 and from December 1, 2022, forward for \$65 per month for a household group size of one. On October 27, 2022, the Department sent the Petitioner

a Health Care Coverage Determination Notice, DHS 1606, that the Petitioner was eligible for MA under the Freedom to Work with an estimated premium of \$44.13 starting December 1, 2022, forward. On November 4, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 110, 115, 130, 220, and 600. BEM 210, 503, 505, and 554.

During the hearing, the Petitioner stated that he submitted check stubs for the weeks he worked. He doesn't always work every week or every day. If he did not submit a paycheck for that week, then he didn't work that week. The Department seemed to have extrapolated based on the check stubs provided, which did not give an accurate reflection of how much he actually worked. An Employment Verification, DHS 38, would more accurately capture the Petitioner's actual employment income to determine FAP and MA eligibility.

DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the Petitioner's eligibility for FAP and MA based on an extrapolation of the check stubs submitted.

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, of initiating a redetermination of the Petitioner's eligibility for FAP and MA retroactive to November 1, 2022, by sending out a new Employment Verification, DHS 38.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

CF/cc



Carmen G. Fahie
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 :

Interested Parties

MDHHS-Saginaw-Hearings
BSC2-HearingDecisions
EQADHearings
C. George
D. Sweeney
M. Holden
MOAHR
Petitioner

Via-First Class Mail :

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