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GOVERNOR

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

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DIRECTOR

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Date Mailed: December 28, 2022
MOAHR Docket No.: 22-005475
Agency No.: ██████████
Petitioner: ██████████

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 line on December 19, 2022. Petitioner did not participate. ██████████, Petitioner's spouse testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Haysem Hosny, hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) 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. As of September 2022, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through October 2022.
2. On September 6, 2022, MDHHS mailed Petitioner a Redetermination form (DHS-1010) stating Petitioner was to complete and return the form to MDHHS by September 26, 2022.
3. On October 3, 2022, MDHHS mailed Petitioner a Notice of Missed Interview form warning that FAP benefits would end unless the DHS-1010 was returned and/or a redetermination interview was held.

4. As of October 31, 2022, MDHHS had not received a DHS-1010 from Petitioner.
5. Beginning November 2022, Petitioner's FAP eligibility expired.
6. On November 21, 2022, Petitioner requested a hearing to dispute the termination of FAP benefits. Petitioner also requested a hearing disputing Medical Assistance (MA) eligibility.
7. On December 19, 2022, Petitioner's spouse verbally withdrew the dispute over MA benefits.

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 benefits. Exhibit A, pp. 4-5. Petitioner's spouse testified that MDHHS terminated Petitioner's MA case. During the hearing, MDHHS testified that no action was taken concerning Petitioner's MA eligibility. MDHHS's testimony was consistent with Petitioner's spouse's admission that he received no written notice of MA closure. After hearing MDHHS's testimony, Petitioner's spouse requested to withdraw his dispute over MA benefits; MDHHS had no objections. Concerning Petitioner's dispute of MA, Petitioner's hearing request will be dismissed.

The Food Assistance Program [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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a termination of FAP benefits. Exhibit A, p. 4-5. MDHHS testified that Petitioner's FAP eligibility ended beginning November 2022 due to Petitioner's failure to return a DHS-1010.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2021) p. 3. Bridges, the MDHHS database, automatically sends a DHS-1010, Redetermination, to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client files a DHS-1010 or other acceptable

substitute form. BAM 210 (January 2018), p. 3. FAP benefits stop at the end of the benefit period unless the redetermination process is completed and a new benefit period is certified. *Id.* If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the benefits and a Notice of Case Action is not generated. *Id.*, p. 14.

For FAP benefits, MDHHS is also to conduct a telephone interview at redetermination before determining ongoing eligibility. *Id.*, p. 6. If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. *Id.*

It was not disputed that MDHHS mailed Petitioner a DHS-1010 on September 6, 2022, which stated the form needed to be completed and returned to MDHHS by September 26, 2022. Exhibit A, pp. 6-13. The DHS-1010 also stated that Petitioner was to be interviewed on October 3, 2022.

MDHHS contended it did not receive the DHS-1010 from Petitioner before the end of October 2022. To corroborate its testimony, MDHHS presented a copy of Petitioner's electronic case file which listed various documents returned by Petitioner, but no DHS-1010. The evidence established that MDHHS did not log receipt of Petitioner's DHS-1010. An unlogged DHS-1010 does not rule out the possibility that Petitioner properly submitted a DHS-1010 and MDHHS failed in its processes to log its receipt.

Petitioner's spouse contended that he completed and dropped the Redetermination to MDHHS on September 8, 2022, via the local office drop box. MDHHS testified its office offers two drop boxes in its lobby. One box is located by the front door and has no corresponding log. The second box is at the front desk where clients sign a log when submitting documents. Petitioner's spouse's testimony acknowledged that he did not sign a log when he submitted the DHS-1010. He also testified that he would have dropped the DHS-1010 at the front desk box but was told by staff that the drop box by the front door was acceptable. Petitioner's spouse's claim of a timely submission was consistent with his hearing request which also claimed a timely submission; however, Petitioner's spouse failed to corroborate his testimony of a timely DHS-1010 submission.

Also problematic for Petitioner is a hearing request claim that MDHHS failed to issue notice that a DHS-1010 was not timely returned. After MDHHS not logging the DHS-1010 as received by the interview date, MDHHS mailed Petitioner a Notice of Missed Appointment dated October 3, 2022. Exhibit A, p. 15. The form warned that Petitioner missed a review appointment and/or failed to return the DHS-1010. The notice further warned that FAP eligibility would end at the end of October 2022 unless the form was returned and an interview was held. The evidence established proper notice of FAP closure.

Petitioner also complained of not being told that his DHS-1010 was not received by his assigned worker. Petitioner's spouse claims he spoke to his specialist every month and was never told to return the DHS-1010. MDHHS documented some contacts with

Petitioner's spouse. Exhibit A, p. 14. Notably, conversations with Petitioner's spouse were documented in September 2022 (before a DHS-1010 was due) and November 2022 (after FAP benefits expired). The comments suggested no contacts from Petitioner's spouse after a DHS-1010 was due and before FAP benefits expired.

Given the evidence, it is more probable than not that Petitioner failed to submit a DHS-1010 by the end of October 2022. Thus, MDHHS properly allowed Petitioner's FAP eligibility to expire. As discussed during the hearing, Petitioner's remedy is to reapply for FAP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew the dispute concerning MA benefits. Concerning MA 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 properly terminated Petitioner's FAP eligibility beginning November 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



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
MDHHS-Macomb-36-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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