



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 31, 2023
MOAHR Docket No.: 23-006184
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 October 27, 2023. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. Darres Kidar provided interpreter services.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) Program 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. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.
3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.

4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. In connection with evaluating Petitioner's ongoing eligibility for MA, Petitioner completed and returned a redetermination form on May 12, 2023. On the form, Petitioner indicated that he had 0 average hours per week with [REDACTED] but earned \$[REDACTED] every two weeks in addition to income from [REDACTED] for his daughter, and other self-employment income.
7. On July 18, 2023, MDHHS sent Petitioner a verification checklist (VCL) requesting verification of self-employment income and expenses for April through June 2023, three completed DHS-431 forms, verification of wages with [REDACTED], and verification of wages from [REDACTED] with proofs due by July 28, 2023.
8. Petitioner submitted the DHS-431 forms with receipts and pay stubs for his daughter but failed to provide any verification of employment with [REDACTED]. Petitioner testified that he did not provide these verifications because he was no longer working there, as it was a temporary job, and had already provided the single wage verification for the time he was employed.
9. On September 12, 2023, the Department sent Petitioner a Notice of Case Action advising him that his FAP case was closing effective October 1, 2023 for failure to verify earned income for himself.
10. Petitioner's MA benefits also closed but the date of the closure is uncertain.
11. On September 15, 2023, MDHHS received Petitioner's hearing request disputing the closures of both programs.

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.

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

MA Case Closure Due to Failure to Respond/Verify

In connection with Petitioner's MA redetermination, MDHHS closed Petitioner's FAP and MA case because Petitioner failed to verify his employment with [REDACTED].

Under 42 CFR 435.916(a)(2) and (b), and consistent with §§ 435.948, 435.949, and 435.956, as well as BAM 800 (April 2022), pp. 2-5, MDHHS can renew MA eligibility using electronic resources/databases available to it. If information provided to MDHHS by or on behalf of an MA applicant or recipient is reasonably compatible with information obtained by MDHHS through electronic data exchange services, MDHHS must determine or renew eligibility based on such information. 42 CFR 435.952(b); BAM 210 (October 2022), p. 1.

If the individual is not eligible for MA based on information retrieved from electronic database services or other reliable sources or if information needed by MDHHS to determine eligibility cannot be obtained electronically or if the information obtained electronically is not reasonably compatible with information provided by or on behalf of the individual, then MDHHS may not deny or terminate eligibility or reduce benefits for the individual unless it first seeks additional information from the individual. 42 CFR 435.952(c) and (d). MDHHS may request from the Medicaid applicant or recipient only information that has changed or is missing. BAM 210, p. 2. Medicaid recipients who are

eligible based on MAGI methodologies must have a minimum of 30 days to return their pre-populated renewal form and any requested information. Non-MAGI Medicaid recipients must be provided with a reasonable period of time to return their renewal form and any required documentation. Renewal forms and notices must be accessible to persons who have limited English proficiency (LEP) and persons with disabilities. 42 CFR 435.905(b).

MDHHS must notify MA recipients of the basis of an eligibility determination and notify them that they must inform the state if any of the information used to determine their eligibility is not accurate. 42 CFR 916(a)(2). If MAGI-based MA is terminated at renewal for failure to return the renewal form or other needed and requested documentation, MDHHS must reconsider the individual's eligibility without requiring a new application if the renewal form and/or requested information is returned within 90 days after the date of termination. 42 CFR 435.916(a)(3)(iii) and (b). **States may, but are not required to, provide a reconsideration period for non-MAGI beneficiaries.**

Redeterminations may occur early to align dates for multiple programs. BAM 210 (October 2023), p. 10. FAP redeterminations scheduled early cannot be terminated prior to the end of the benefit period for failure to complete the redetermination process. BAM 210, p. 10. Otherwise, FAP benefits will close if the verifications are not submitted timely. BAM 210, p. 21.

In this case, MDHHS closed Petitioner's FAP and MA case because Petitioner failed to verify his income from [REDACTED]. On Petitioner's completed Redetermination submitted to the Department on May 12, 2023, Petitioner indicated that he did not have regular hours with [REDACTED] but had biweekly income from them. As a result, the Department asked for verification for Petitioner's income consistent with policy. BEM 501 (July 2022); BAM 130 (October 2023); BAM 210. Petitioner did not provide any verifications with respect to [REDACTED] because the employment had ended, he equated it with self-employment income, and he had already verified the one paycheck received from [REDACTED]. Unfortunately, [REDACTED] is a regular employer that issues its own paychecks and it is not considered self-employment income. Therefore, when Petitioner listed it on his redetermination, the Department expected him to verify it. Furthermore, although Petitioner testified that he had previously provided the paycheck associated with [REDACTED], he never provided verification that the income had ended. Therefore, the Department's closure of Petitioner's MA benefits is consistent with policy.

Despite the proper closure of Petitioner's MA benefits, the Department has not met its burden of proof in establishing that Petitioner's FAP benefits were properly closed. Although the Department could move Petitioner's redetermination review date to align with the MA program, the Department was required to show that Petitioner's FAP case did not close prior to his originally certified benefit period. BAM 210, p. 21. Therefore, the Department has not met its burden of proof.

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 acted in accordance with Department policy when it closed Petitioner's MA benefits, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the closure of MA benefits and **REVERSED IN PART** with respect to the closure of FAP benefits.

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. Reinstate Petitioner's FAP benefits through his previously certified benefit period if benefits were closed prior to the previously certified benefit period;
2. Issue FAP supplements to Petitioner for benefits not previously received if appropriate;
3. Notify Petitioner in writing of its decision.

AM/mp



Amanda M. T. Marler
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-Wayne-17-hearings
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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[REDACTED]
[REDACTED] MI [REDACTED]