



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: July 19, 2024
MOAHR Docket No.: 24-006549
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 July 10, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payment Supervisor, and Sara Lluberes, Supports Lead Worker for the Office of Child Support (OCS).

ISSUE

Did the Department properly determine Medical Assistance (MA) eligibility for her [REDACTED] year-old child (Child C)?

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failure to verify requested information?

Did the Department properly exclude Petitioner from her FAP group for failing to cooperate with OCS?

FINDINGS OF FACT

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

1. Petitioner was an ongoing MA and FAP recipient.
2. Petitioner has four minor children ([REDACTED] year old Child A, [REDACTED] year old Child B, [REDACTED] year old Child C, and [REDACTED] month old Child D).

3. Petitioner's household size for MA purposes consists of herself and her four minor children.
4. Petitioner resides with her four minor children, her living together partner (LTP), and LTP's minor child.
5. Petitioner was placed in noncooperation status by OCS on the following dates for each of her minor children: on June 29, 2019, June 4, 2021, September 1, 2022, and January 2, 2024. (Exhibit 1, p. 54).
6. On March 4, 2024, the Department sent a redetermination form to Petitioner concerning MA with a due date of April 4, 2024. (Exhibit A, p. 10).
7. Petitioner did not return the redetermination form to the Department.
8. On May 17, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that Child C was no longer eligible for MA coverage effective June 1, 2024 because Petitioner failed to return the redetermination form to the Department. (Exhibit A, pp. 19-22).
9. On May 21, 2024, the Department sent a Notice of Case Action (NOCA) to Petitioner informing her that for April 29 2024 through April 30, 2024 her FAP group was approved for FAP benefits in the amount of \$84 and for May 2024, her FAP group was approved for \$1,311 in FAP benefits for a household size of 6. (Exhibit A, pp. 23-27). Additionally, effective June 1, 2024 ongoing, the Department determined that the FAP benefits would be reduced to \$0 due to failure to cooperate with child support requirements and failure to verify self-employment payments. (Exhibit A. p. 24).
10. On June 3, 2024, Petitioner filed a request for hearing disputing the Department's determinations concerning Child C's MA coverage and her household's FAP case. (Exhibit A, pp. 3-9).

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).

FAP

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.

On May 21, 2024, the Department issued a NOCA that notified Petitioner that (1) effective June 1, 2024, the FAP case would close because verification of Petitioner's self-employment income, compliance with child support, and residential address was not returned, and (2) Petitioner is disqualified from the FAP group due to the child support noncooperation sanction.

Verification of self-employment is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), p. 1. The redetermination form the Department sent Petitioner on March 4, 2024 concerning MA had prepopulated self-employment information for Petitioner (Exhibit A, p. 14). At the hearing, Petitioner testified that she had provided documentation regarding the end of her self-employment to the Department in December 2023. Upon reviewing its files, the Department acknowledged that it received information in December 2023 from Petitioner verifying that she was no longer receiving self-employment income. Because Petitioner verified loss of this income more than 30 days before the redetermination was sent to her, there was no basis in policy to require that she verify the loss of that income again. See BEM 505 (July 2021), p. 14. Based on the evidence presented, the Department did not have a basis to request verification of self-employment in April 2024 and it improperly closed Petitioner's FAP benefits due to failure to verify self-employment income. Although the NOCA also indicated that Petitioner failed to verify her residential address, the Department did not present any evidence to support its position that Petitioner failed to verify her address or that was a valid basis for the FAP case closure.

Although the NOCA also indicated that Petitioner's FAP case closed due to her failure to comply with OCS child support reporting obligations, Department policy explains that failure to cooperate with child support requirements without good cause results in disqualification of the individual who failed to cooperate. BEM 255, p. 14. Therefore, the Department did not act in accordance with Department policy to the extent it closed Petitioner's FAP case due to her failure to cooperate with OCS obligations.

However, cooperation with child support is a condition of FAP eligibility. Department policy requires the custodial parent of children to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (February 2024), p. 9. Cooperation includes contacting the support specialist when requested and providing all known information about the absent parent. BEM 255, p. 10. A person who does not cooperate is disqualified from the FAP group and is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. BEM 255, pp. 14, 16.

Here, the Department testified that it sent Petitioner letters requesting information concerning each of Petitioner's children and when she failed to respond, it put her in noncooperation. Petitioner argued that she did not receive the letters, but the evidence

established she was in noncooperation until June 28, 2024. Because Petitioner was in noncooperation until June 28, 2024, the Department properly excluded her from her FAP group due to non-cooperation with OCS, and the FAP group size was properly reduced to 6: Petitioner's four minor children, LTP and LTP's minor child. Because the disqualified individual and their needs are removed from the FAP group for a minimum of one month, the Department properly removed Petitioner from the FAP group until June 28, 2024. BEM 255, p. 14.

MA

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 connection with Petitioner's MA redetermination, the Department closed Child C's MA case effective June 1, 2024 for Petitioner's failure to complete the redetermination form for continued MA eligibility. Petitioner testified that she never received the redetermination form from the Department and disputes the closure of Child C's MA case. Petitioner did not dispute MA coverage for herself and her remaining children, Child A, B, and D.

The Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. For MA cases, a redetermination is an eligibility review based on a reported change. A renewal is the full review of eligibility factors completed annually. The renewal month is 12 months from the date the most recent complete application was submitted. BAM 210 (October 2023), pp. 1-4. For MA cases, benefits stop at the end of the benefit period unless a renewal is completed, requested verifications are received and a new benefit period is certified. BAM 210, pp. 3-5. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p. 14. The Department will send a DHS-1606, Health Care Coverage Determination Notice, which details the information used to determine eligibility. BAM 210, p. 19-20.

At the hearing, the Department testified that it sent Petitioner a renewal form on March 4, 2024 with an April 4, 2024 due date, and when Petitioner failed to submit a completed redetermination/renewal form by the April 4, 2024, deadline, it was unable to review Child C's continued MA eligibility and sent Petitioner the Health Care Coverage Determination Notice on May 17, 2024, advising her of the MA case closure effective June 1, 2024. Petitioner testified that she had not received a copy of the redetermination form. It was confirmed on the record that the redetermination was mailed to Petitioner's correct address. Based on the evidence presented, the Department acted in accordance with

Department policy when it closed Child C's MA case. Petitioner was informed that she is entitled to submit a new application for MA benefits and Child C's eligibility will be reviewed.

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 Child C's MA case due to Petitioner's failure to submit the MA redetermination form but did not act in accordance with Department policy when it closed Petitioner's FAP case.

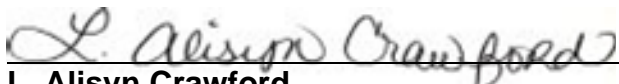
DECISION AND ORDER

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

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. Redetermine the FAP benefits Petitioner's group is eligible to receive based on a six-person group size for June 2024;
2. Add Petitioner as an eligible member of her FAP group effective July 1, 2024 ongoing;
3. If eligible, issue FAP supplements to the FAP group from June 1, 2024 ongoing for any benefits they were eligible to receive but did not; and
4. Notify the Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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:

Department Representative
Office of Child Support (OCS)-MDHHS
201 N Washington Square
Lansing, MI 48933
MDHHS-OCS-Admin-Hearings@michigan.gov

DHHS
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Interested Party
BSC4
M Schaefer
EQAD
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

[REDACTED] MI [REDACTED]

