



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

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Date Mailed: August 13, 2024  
MOAHR Docket No.: 24-007989  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 on August 8, 2024, via teleconference. Petitioner appeared and represented herself. Devona Gilbert, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-42.

**ISSUES**

1. Did MDHHS properly close Petitioner’s Food Assistance Program (FAP) case?
2. Did MDHHS properly terminate Petitioner’s Medicaid (MA) coverage?

**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 recipient of FAP and MA.
2. On ██████████ 2024, Petitioner applied for State Emergency Relief (SER) for utility assistance and rent to prevent eviction (Exhibit A, p. 9). Petitioner reported working at ██████████ (Employer 1), earning \$██████████ every two weeks (Exhibit A, p. 12).
3. On June 24, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP case would be closed, effective August 1, 2024 ongoing, because gross income exceeded the income limit (Exhibit A, p. 15). MDHHS budgeted \$2,679.00 for Petitioner’s monthly income (Exhibit A, p. 16).

4. On June 24, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was not eligible for MA, effective August 1, 2024 ongoing (Exhibit A, p. 30). MDHHS determined that her annual income was \$32,292.00 (Exhibit A, p. 31).
5. On July 2, 2024, Petitioner filed a request for hearing regarding FAP and MA (Exhibit A, pp. 5-7).

### **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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Medicaid (MA) 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.

In this case, MDHHS terminated Petitioner's FAP benefits and MA coverage after Petitioner submitted a SER application. On the SER application, Petitioner reported earned income from Employer 1. MDHHS determined that Petitioner was over the income limit for the programs. Petitioner disputed the termination of her FAP benefits and MA coverage.

When a case is already active for program benefits and the client submits an additional application, MDHHS is required to review the application for changes in circumstances and process any changes. BAM 110 (April 2024), p. 8. MDHHS must obtain verification when it is required by policy or information is unclear, contradictory or incomplete. BAM 130 (May 2024), p. 1. To obtain verification, MDHHS is required tell the client what verification is needed, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* The client must obtain the requested verification, and the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgement. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification, or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.* Before determining program eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and another source. *Id.*, p. 9.

Here, Petitioner submitted a SER application and reported income from Employer 1 (Exhibit A, p. 12). MDHHS also determined that Petitioner was receiving income from [REDACTED] (Employer 2). Petitioner reported that she received \$ [REDACTED] every two weeks from Employer 1 and did not report income from Employer 2. MDHHS budgeted Petitioner's income as \$ [REDACTED] from August 1, 2024 ongoing and terminated Petitioner's FAP benefits and MA coverage due to excess income (Exhibit A, pp. 15-16, 30-31). Petitioner disputed the amount that MDHHS budgeted for her income and testified that her income at Employers 1 and 2 varied.

The record shows that the income that Petitioner reported was different from the income that MDHHS budgeted for Petitioner. MDHHS is required to verify information when it is in dispute and must allow clients a reasonable opportunity to resolve any discrepancies. BAM 130, p. 9. MDHHS failed to establish that it did so in this case prior to terminating Petitioner's benefits. Additionally, MDHHS is required to complete budgets for current and future months. *See generally*, BEM 505 (October 2023), pp. 1-15. To prospect income, MDHHS must consult with the client whenever possible. *Id.* If the income fluctuates or is irregular, MDHHS may use income for the past 60 or 90 days if the time period appears to accurately reflect what the client expects to receive in the benefit month. *Id.*, p. 6. It is unclear whether MDHHS consulted with the client to prospect her future income in this case.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's FAP and MA benefits.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 Petitioner's eligibility for FAP and MA benefits, effective August 1, 2024 ongoing, requesting additional verifications, as necessary;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from August 1, 2024 ongoing;
3. Provide Petitioner with the most beneficial MA coverage that she is eligible to receive, from August 1, 2024 ongoing; and
4. Notify Petitioner of its decision(s) in writing.

LJ/pt

  
Linda Jordan  
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**

Elisa Daly  
Saginaw County DHHS  
411 East Genesee  
Saginaw, MI 48607

**MDHHS-Saginaw-Hearings@michigan.gov**

**Interested Parties**

BSC2  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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