



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

██████████
██████████████████
██████████████████ MI ██████████

Date Mailed: October 18, 2024
MOAHR Docket No.: 24-010087
Agency No.: ██████████
Petitioner: ██████████

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 October 9, 2024. Petitioner was present at the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Eileen Kott, Family Independence Manager, and Arnesia Woods, Eligibility Specialist.

ISSUE

Did the Department properly terminate Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) cases?

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 MA, MSP, and FAP benefits.
2. Petitioner is over the age of ██████████
3. On April 26, 2024, the Department sent Petitioner a Verification Checklist concerning Petitioner's FAP, MSP and MA cases requesting that Petitioner provide by May 6, 2024, a checking and savings account from ██████████ Bank accounts ending 1321 and 8338 and a checking account with ██████████ Bank ending 8435. Exhibit A, pp. 29-39)
4. On June 27, 2024, the Department sent Petitioner (i) a Notice of Case Action (NOCA) closing his FAP case effective August 1, 2024 and (ii) a Health Care Coverage Determination Notice (HCCDN) notifying Petitioner that his MSP case was

going to close effective August 1, 2024 because he did not meet the basic criteria for MSP and he was approved for MA coverage under the Plan First Family Planning (PFFP) category effective August 1, 2024 (Exhibit A, pp. 6-10).

5. On August 26, 2024, the Department received a request for hearing from Petitioner disputing the closure of his MA, MSP, and FAP benefits. (Exhibit A, pp. 4-5).
6. On September 6, 2024, the Department sent a Verification Checklist (VCL) to Petitioner requesting verifications to determine his eligibility for MA, MSP, and FAP benefits. (Exhibit A, pp. 12-14). Specifically, the Department requested verification regarding his housing expenses, checking account, savings account, and information regarding the ownership of his home. The requested verifications were due back to the Department on September 16, 2024.

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.

The Department explained that Petitioner's MA and MSP cases closed effective August 1, 2024 because he failed to verify his Citizen's bank account and his FAP case closed effective August 1, 2024 for failure to provide verification of assets. Assets, including amounts in checking and bank accounts, must be verified for determination of MA eligibility for individuals over 65 years old. See BEM 400 (October 2024), p. 1. However, effective June 1, 2024, there is no asset test for FAP eligibility for categorically eligible FAP groups. BEM 400, pp. 3, 6; BEM 213 (October 2024), p. 1. Because there was no evidence presented that Petitioner was not categorically eligible, the Department did not

act in accordance with Department policy to the extent it closed Petitioner's FAP case for failure to verify asset.

While the Department provided an April 26, 2024 verification checklist sent to Petitioner prior to the August 1, 2024 closure of Petitioner's FAP, MA and MSP cases; for reasons the Department did not explain, after Petitioner submitted his August 26, 2024 request for hearing, the Department acknowledged that it sent Petitioner a September 9, 2024 VCL concerning FAP, MA, and MSP.

In general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Here, the September 6, 2024 VCL requested verification of rent, checking account, savings account, and information regarding the ownership of his home. Petitioner testified that he provided the Department with the requested verifications timely. At the hearing, the Department acknowledged that Petitioner provided verifications but indicated that the verifications received were not sufficient based on its request. On the record, the Department indicated that it needed verification of trust. However, there was no evidence presented that any VCL requesting documentation of his trust was sent to Petitioner. The Department testified that it also requested a copy of Petitioner's banking information for ██████ Bank and ██████ Bank. Petitioner provided evidence and testimony that information regarding his ██████ Bank was provided to the Department and Petitioner also informed the Department that the ██████ Bank account no longer existed. (Exhibit 1, pp. 11; 15). Here, Petitioner did not indicate a refusal to provide the verification and once he disclosed the closure of the bank account, the Department should have assisted him to satisfy the verification request. Based on Petitioner's attempts to provide the Department with the requested verifications, it is clear Petitioner did not refuse to provide the verification and while the time period to provide the verifications had lapsed, he made reasonable efforts to provide it.

Therefore, 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 closed Petitioner's MA, MSP, and FAP cases due to failure to provide requested verifications.

DECISION AND ORDER

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, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's eligibility for MA, MSP, and FAP benefits effective August 1, 2024, requesting verifications if necessary;
2. If Petitioner is eligible for MA and/or MSP, provide Petitioner with the most beneficial MA/MSP coverage he is eligible to receive from August 1, 2024 ongoing;
3. If Petitioner is eligible for FAP benefits, issue FAP supplements from August 1, 2024 ongoing for any benefits he was eligible to receive but did not; and,
4. Notify 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:

DHHS

Dora Allen

Wayne-Gratiot/Seven-DHHS

4733 Conner Suite G 7 Lappin

Detroit, MI 48215

MDHHS-Wayne-76-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

M Schaefer

EQAD

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]