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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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Date Mailed: October 24, 2024
MOAHR Docket No.: 24-010693
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 October 16, 2024, via teleconference. Petitioner appeared and represented herself. J. Richard, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-26.

ISSUES

1. Did MDHHS properly terminate Petitioner’s Food Assistance Program (FAP) benefits?
2. Did MDHHS properly determine Petitioner’s eligibility for Medicaid (MA) 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. Petitioner was an ongoing recipient of FAP benefits and MA coverage.
2. On ██████████ 2024, Petitioner submitted a Redetermination for FAP (Exhibit A, p. 6).
3. On August 6, 2024, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of alien status and all earned and unearned income (Exhibit A, pp. 12-13). The VCL indicated that proofs were due by August 16, 2024 (Exhibit A, p. 8).
4. On August 30, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits would be terminated, effective October 1, 2024 ongoing, for failure to provide the requested verifications (Exhibit A, pp. 21-22).

5. On September 17, 2024, Petitioner submitted a Request for Hearing regarding MA and FAP benefits (Exhibit A, pp. 4-5).

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)

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.

In this case, MDHHS terminated Petitioner's FAP benefits for failure to return requested verifications. At the hearing, MDHHS alleged that it was missing verification related to a donation Petitioner received from a family member.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (May 2024), p. 1. To obtain verification, MDHHS must tell the client what verification is required, 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, but 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.

At the hearing, Petitioner credibly testified that she was attempting to comply with MDHHS' verification requests but that she was unsure about what documentation was needed. MDHHS alleged that Petitioner received a donation from a family member that it needed to verify. The source and amount of this donation is unclear from the record. MDHHS further alleged that it requested verification of the donation when it sent the VCL,

because it asked for “all earned and unearned income” (Exhibit A, p. 13). Petitioner testified that she did not know that the donation counted as income and did not know what verifications regarding income MDHHS was seeking.

A donation to an individual by family or friends counts as the individual's unearned income. BEM 503 (April 2024), p. 11. MDHHS counts the gross amount received, if the individual making the donation and the recipient are not members of any common eligibility determination group. *Id.* Although a donation could be considered income, it is unclear from the record the source and the amount of the donation. Therefore, it is unclear whether the donation could be considered inconsequential, excluded income. BEM 500 (April 2022), p. 9. Because the record is incomplete on this issue, it is unclear whether MDHHS was required to verify the donation.

Additionally, MDHHS failed to establish that it properly informed Petitioner regarding what income it needed to verify. MDHHS could have specified on the VCL that it needed to verify a donation received from a family member or another source. Given the circumstances, the record shows that Petitioner made a reasonable effort to comply with MDHHS' verification requests.

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

Medicaid (MA)

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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner requested a hearing regarding her son's MA coverage after MDHHS terminated the coverage for an alleged failure to return the requested verification. After the termination, Petitioner reapplied, and the MA coverage was reinstated. At the hearing, MDHHS confirmed that there was no gap in Petitioner's son's MA coverage. Petitioner testified that she no longer wished to proceed with the hearing because the issue had been resolved. Petitioner requested to withdraw the Request for Hearing regarding MA. MDHHS had no objection, and the request was granted on the record.

Pursuant to the withdrawal of the Request for Hearing, the matter regarding MA is, hereby, **DISMISSED**.


DECISION AND ORDER

Pursuant to the Petitioner's withdrawal of the Request for Hearing at the hearing, the matter regarding MA is, hereby, **DISMISSED**.

MDHHS' decision regarding FAP 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. Reinstate Petitioner's FAP case and redetermine Petitioner's eligibility for FAP benefits from October 1, 2024 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from October 1, 2024 ongoing; and
3. Notify Petitioner of its decision 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

