



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]
[REDACTED]
MI [REDACTED]

Date Mailed: January 17, 2025
MOAHR Docket No.: 24-013010
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 18, 2024, via teleconference. Petitioner appeared and represented himself. Melissa Minard, Assistance Payments Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence as MDHHS Exhibit A, pp. 1-24.

ISSUE

Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) and 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 benefits and MA coverage.
2. On or about November 4, 2024, the MDHHS Office of Inspector General (OIG) conducted an investigation after it received information from U.S. Customs and Border Protection that Petitioner was entering Michigan in order to obtain benefits from MDHHS, despite being a Canadian citizen (Exhibit A, p. 15). MDHHS OIG proposed terminating Petitioner's FAP and MA benefits (Exhibit A, p. 15).
3. On November 6, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP benefits would be terminated, effective December 1, 2024 ongoing, for failure to meet Michigan residency requirements (Exhibit A, p. 8).

4. On November 6, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that Petitioner's MA coverage would be terminated, effective December 1, 2024 ongoing (Exhibit A, p. 12).
5. On November 18, 2024, Petitioner requested a hearing (Exhibit A, p. 4).

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 MA 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 because it determined that he no longer met the Michigan residency requirements for the programs.

To be eligible for benefits administered by MDHHS, a person must be a Michigan resident. BEM 220 (January 2023), p. 1. For FAP, a person is considered a resident while living in Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. *Id.* Persons who entered the state with a job commitment or to seek employment are eligible for FAP benefits. *Id.* For MA, a Michigan resident is an individual who is living in Michigan except for a temporary absence. *Id.*, p. 2. Residency continues for an individual who is temporarily absent from Michigan or intends to return to Michigan when the purpose of the absence has been accomplished. *Id.* A homeless person is an individual who lacks a fixed and regular nighttime dwelling or whose temporary nighttime dwelling is one of the following: a supervised private or public shelter for the homeless; a halfway house or similar facility to accommodate persons released from institutions; the home of another person; or a place not designed or ordinarily used as a dwelling (for example, a building entrance or hallway, bus station, park, campsite, or vehicle). BEM 220, p. 2. Lack of a permanent dwelling or fixed mailing address does not affect an individual's state residency status. *Id.* Assistance cannot be denied solely because the individual has no permanent

dwelling or fixed address. *Id.* For homeless individuals, MDHHS is required to use the local office address or another location agreeable to the individual as the mailing address in Bridges, MDHHS' electronic case management system. *Id.*, p. 3.

MDHHS is required to verify an individual's address, unless the individual is homeless. BEM 220, pp. 5-6. Verification sources for an address include a driver's license, other ID which provides name and address, mortgage or rent receipt, utility bill, or a collateral contact with a person who knows the individual's living arrangement. *Id.* MDHHS is required to obtain verification when required by policy, or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 (May 2024), p. 1. The questionable information might be from the client or another source. *Id.* To obtain a verification, MDHHS must tell the client what verification is needed, how to obtain it at the due date. *Id.*, p. 3. MDHHS uses the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* Before determining eligibility, MDHHS must give clients a reasonable opportunity to resolve any discrepancy between their statements and information from another source. *Id.*, p. 9.

Here, MDHHS terminated Petitioner's benefits following an OIG investigation which called into question Petitioner's residency. According to the investigation, Petitioner was detained at the border by federal officials and Petitioner admitted to those officials that that he was receiving benefits from the State of Michigan despite being a [REDACTED] citizen, and that he maintained a false address in Michigan in order to secure those benefits (Exhibit A, p. 15). The report further stated that Petitioner admitted that he had not lived or worked in the United States for over 20 years (Exhibit A, p. 15).

At the hearing, Petitioner testified that the allegations in the report were untrue. Petitioner testified that he was homeless during the time period in question, that he was in the United States as a lawful permanent resident, and that he had used a secondary address as mailing address as a matter of convenience. He further testified that he did not live in Canada, but that he returned to Canada frequently to visit and care for his elderly parents. Petitioner testified that he lived in various places in Michigan until he was able to secure an apartment, including hotels and in his car.

Regarding the OIG investigation, an OIG agent did not appear at the hearing to provide testimony on the matter, nor did a representative from U.S. Customs and Border Protection. The report included statements that Petitioner allegedly made while detained. These statements constitute hearsay which is generally inadmissible in a court of law under the Michigan Rules of Evidence (MRE). MRE 801(c); MRE 802.

In administrative hearings, Administrative Law Judges follow the same evidentiary rules used in circuit court and have the discretion to admit and give probative effect to evidence of a type commonly relied on by a reasonably prudent person in the conduct of their affairs. BAM 600 (June 2024), p. 38. Administrative Law Judges may be more lenient than a circuit court judge in deciding what evidence may be presented and may refuse to accept evidence that is unduly repetitions, immaterial, irrelevant or incompetent. *Id.* In this instance, Petitioner's sworn testimony given during that

administrative hearing carries more weight than the out-of-court statements contained in the OIG report.

Additionally, MDHHS was required to verify Petitioner's residency pursuant to Department policies, because it was an eligibility factor that was in dispute. MDHHS received information from a third party that contradicted Petitioner's statements. MDHHS was required to allow Petitioner an opportunity to resolve any discrepancies, and it failed to show that it did so here. There is no evidence that MDHHS contacted Petitioner regarding his residency or that it sent Petitioner a VCL to verify his residency.

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 did not act 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. Reinstate Petitioner's FAP and MA cases and redetermine his eligibility for FAP and MA from December 1, 2024 ongoing, requesting additional verifications, as needed;
2. Provide Petitioner with the most beneficial category of MA coverage that he is eligible to receive, from December 1, 2024 ongoing;
3. Provide Petitioner with supplemental payments for any FAP benefits that he was eligible to receive, but did not from December 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
Gary Leathorn - 74
St Clair County DHHS
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Interested Parties
BSC2
M Holden
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N Denson-Sogbaka
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

Petitioner
[REDACTED]
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