



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]

Date Mailed: February 10, 2025
MOAHR Docket No.: 24-013939
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on February 5, 2025. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Saquoyah Reeves, Assistance Payments Supervisor, and Robbi Crosby, Eligibility Specialist. Translation services were provided by Nkechi Okafor, an independent English-Igbo translator engaged by the Department.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective September 30, 2024?

Did the Department properly redetermine Petitioner's Medicaid (MA) eligibility effective December 1, 2024?

FINDINGS OF FACT

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

1. On August 1, 2024, the Department sent Petitioner a Semi-Annual Contact Report (SACR) to be completed and returned to the Department by August 21, 2024. (Exhibit A, pp. 11 – 15).
2. On September 10, 2024, the Department sent Petitioner a Notice of FAP case Closure that notified Petitioner his FAP case would close on September 30, 2024 because he did not return a completed SACR. The notice also notified Petitioner that he could complete and return the SACR by the end of September 2024 to maintain his FAP benefits. (Exhibit A, pp. 16 – 17).

3. On December 3, 2024, the Department received an incomplete application for FAP, MA, Family Independence Program (FIP), and State Emergency Relief (SER) assistance. Petitioner was an ongoing MA recipient at the time of his application. On the application, Petitioner provided his name, address, phone number, Social Security Number, and date of birth, but did not provide any information regarding his income, expenses, assets, or emergency needs, or answer numerous other questions on the application. (Exhibit A, pp. 7 – 10).
4. On December 5, 2024, the Department sent Petitioner an Application Notice that denied Petitioner SER due to failure to identify an emergency that could be resolved through SER assistance. (Exhibit A, pp. 18 – 19).
5. On December 12, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that approved Petitioner for Emergency Services Only (ESO) effective December 1, 2024. Petitioner was approved for Healthy Michigan Plan (HMP) MA until November 30, 2024.
6. On December 17, 2024, the Department received a request for hearing from Petitioner regarding FAP, MA, SER, and FIP.

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).

Petitioner requested a hearing to dispute the Department's a) closure of his FAP case effective September 30, 2024, b) determination of his MA coverage, c) determinations or actions regarding his application for SER and FIP assistance. The Department closed Petitioner's FAP case for failure to return the SACR, changed Petitioner's MA coverage from HMP to ESO effective December 1, 2024 ongoing, denied Petitioner SER for failure to identify an emergency on his application, and did not take any action on Petitioner's application for FIP prior to Petitioner's request for hearing.

As a preliminary matter, Petitioner requested a hearing to dispute, among other things, the Department's determinations or actions regarding his applications for SER and FIP assistance. After the hearing commenced, Petitioner requested to withdraw his requests for hearing as to SER and FIP, and there was no objection by the Department. Therefore, Petitioner's request for hearing as to SER and FIP are dismissed.

The only remaining issues to be addressed are whether the Department properly closed Petitioner's FAP case and properly determined Petitioner's MA eligibility.

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.

Petitioner requested a hearing to dispute the Department's closure of his FAP case. The Department closed Petitioner's FAP case due to his failure to return the SACR by September 30, 2024.

When a group is actively receiving FAP benefits, the Department must periodically redetermine an individual's eligibility for active programs and may do so with a SACR or other forms. BAM 210 (July 2024), p. 1. If the SACR is not returned to the Department by the due date, a notice of FAP closure is sent to the client that notifies the client that if the SACR is not returned by the last day of that month, the FAP case will be closed. BAM 210, p. 14. If the SACR is still not returned and the client's FAP case is closed, the client may reapply for FAP benefits. BAM 210, p. 14.

In this case, the Department sent Petitioner a SACR on August 1, 2024 with a due date of August 21, 2024. There was no dispute that Petitioner did not return the SACR to the Department by August 21, 2024, and on September 10, 2024, the Department sent Petitioner a Notice of FAP Closure. At the hearing, Petitioner testified that he returned the SACR in person to the Department on September 27, 2024. However, there was no evidence in support of Petitioner's testimony and the Department testified that it received the SACR on December 20, 2024.

Because there was no evidence that the Department received Petitioner's completed SACR on or before September 30, 2024, the Department properly closed Petitioner's FAP case effective September 30, 2024.

It is noted that Petitioner reapplied for FAP on December 3, 2024. However, Petitioner's application was incomplete (BAM 115 (October 2024), p. 5; BAM 117 (October 2024), pp. 1 – 2)), and there was no evidence that the Department had made a determination on Petitioner's FAP eligibility as of the date it received Petitioner's request for hearing on December 17, 2024. Therefore, to the extent Petitioner's request for hearing related to his December 3, 2024 application for FAP, because the Department was still within the regular standard of promptness for processing Petitioner's application at the time Petitioner requested his hearing, the undersigned finds no jurisdiction to address Petitioner's December 3, 2024 application for FAP benefits at this time. Mich Admin Code, Rule 792.11002(1).

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.

Petitioner requested a hearing to dispute his MA. Petitioner was an ongoing recipient of HMP MA until November 30, 2024. On December 12, 2024, the Department approved Petitioner for ESO MA effective December 1, 2024 ongoing.

The Department must determine the status of each non-citizen requesting benefits at application, member addition, redetermination, and when a change is reported. BEM 225 (November 2024), p. 1. To be eligible for full coverage MA, the non-citizen's status must be verified. BEM 225, pp. 2 – 8. A non-citizen who has Acceptable Status and is a Qualified Non-Citizen, meets the requirement of citizenship/non-citizen status. BEM 225, p. 3.

Acceptable Status includes non-citizens who are admitted to the US as a lawful permanent resident with a permanent resident card and a class code¹ other than Refugee (RE), Amerasian (AM), or Asylee (AS), or under other specific conditions. BEM 225, pp. 7 – 10. However, if the non-citizen was admitted to the US on or after August 22, 1996, MA is limited to ESO coverage for the first five years they are in the US, unless the individual meets one of the limited exceptions set forth in BEM 225. BEM 225, pp. 7 – 9, 35; see also INA 203(a)(7), 8 USC 1153. A Qualified Non-Citizen is one who was lawfully admitted into the US for permanent residence under the Immigration and Nationality Act (INA), or other specific conditions. BEM 225, pp. 3 – 4. Additionally, if the non-citizen client's date of entry into the US affects their eligibility, the Department must verify the date. BEM 225, pp. 20 – 21.

To obtain verifications, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (May 2024), pp. 1, 3; see also BAM 105 (March 2024), p. 1. Clients have primary responsibility for providing requested verifications and must take actions within their ability to obtain verifications to the Department within 10 days. BAM 130, pp. 3, 8; BAM 105, pp. 7 – 8, 12. For MA, a non-citizen client may verify lawful permanent resident status with an I-551, commonly known as a permanent resident card or green card, among other things. BEM 225, pp. 26 – 32. For purposes of MA, the coverage of a person who is unable to obtain verification of non-citizen status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, pp. 20 – 21.

In this case, the Department testified that it changed Petitioner's MA from HMP MA to ESO because his residency expired. However, there was no evidence that Petitioner's residency expired and Petitioner credibly testified that he has been a legal resident

¹ Class codes are used to describe the visa category used to admit an immigrant to the US as a permanent or temporary resident.

since at least 1994, that he has a green card in his possession, and that his green card does not expire until April 23, 2030. There was no evidence that the Department requested verifications from Petitioner prior to changing his MA coverage.

Additionally, timely notice is required to reduce or terminate MA benefits except under limit circumstances. BAM 130, pp. 4, 11. Because the Department sent Petitioner a HCCDN on December 12, 2024 that reduced his MA benefits from full coverage MA to ESO, effective December 1, 2024, the Department did not act in accordance with Department policy.

Therefore, based on the totality of the evidence, the Department did not act in accordance with Department policy when it changed Petitioner's MA from HMP to ESO.

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 Petitioner's FAP case for failure to return his completed SACR, but did not act in accordance with Department policy when it changed Petitioner's MA from HMP to ESO.

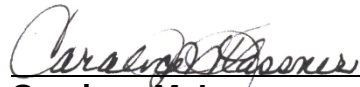
DECISION AND ORDER

Accordingly, Petitioner's request for hearing as to SER and FIP are **DISMISSED**, and the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to MA.

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 MA eligibility effective December 1, 2024, requesting verifications if necessary;
2. If eligible, provide Petitioner with the most beneficial MA coverage he is eligible to receive for December 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/mp



Caralyce M. Lassner
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
Keisha Koger-Roper
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227
**MDHHS-Wayne-31-Grandmont-
Hearings@Michigan.gov**

Interested Parties
N. Denson-Sogbaka
EQAD Hearings
B. Cabanaw
M. Schaefer
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
