



Date Mailed: March 19, 2025

Docket No.: 24-037985

Case No.: [REDACTED]

Petitioner: [REDACTED]

This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via Microsoft Teams on March 10, 2025; the parties participated via telephone. Petitioner participated and was represented. [REDACTED] Petitioner's daughter, participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Karen Smalls, manager.

ISSUES

The issue is whether MDHHS properly determined Petitioner's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The administrative law judge, based on competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November [REDACTED] 2024, Petitioner applied for FAP and MA benefits.

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2. As of November 2024, Petitioner was disabled and/or over 65 years of age, a Medicare recipient, not a caretaker to minor children, unmarried, and not pregnant.
 3. On November ■ 2024, MDHHS denied MA benefits due to Petitioner failing to return a Health Care Coverage Supplemental Questionnaire (HCCSQ).
 4. On December ■ 2024, MDHHS denied Petitioner's request for FAP benefits due to a failure to attend an interview
 5. On December ■ 2024, Petitioner requested a hearing to dispute a denial of FAP and MA benefits.
 6. On December ■ 2024, Petitioner timely returned to MDHHS a HCCSQ.
 7. As of December ■ 2024, MDHHS failed to schedule an interview with Petitioner and failed to send Petitioner a Notice of Missed Appointment.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denial of MA benefits. Exhibit A, p. 3. Petitioner applied for MA benefits on November ■ 2024. Exhibit A, pp. 20-29. A Health Care Coverage Determination Notice dated November ■ 2024, stated that Petitioner was ineligible for Medicaid due to failing to timely return a HCCSQ. Exhibit A, pp. 41-43.

Medicaid is also known as MA. BEM 105 (January 2024) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology.¹ *Id.*

The HCCSQ is used to gather additional information when an applicant is not found eligible for any MAGI-related eligibility group or indicates a disability on the MA benefit application. BEM 105 (January 2024) p. 4. Petitioner's application for MA indicated the

¹ Eligibility factors for all MA categories are found in the Bridges Eligibility Manual from BEM 105 through BEM 174.

following circumstances: being over 65 years of age, non-pregnancy, and not being a caretaker to a minor child. Under the circumstances, Petitioner is ineligible for all MAGI-related categories. Thus, a HCCSQ was required to be returned.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2023) p. 2. For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

The hearing packet included a HCCSQ which was sent to Petitioner on December ■ 2024. Exhibit A, pp. 37-40. The document was returned to MDHHS on December ■ 2024. *Id.* During the hearing, MDHHS did not claim that it sent Petitioner a HCCSQ before denying Petitioner's application on November ■ 2024, or that Petitioner's return of the HCCSQ was untimely.

MDHHS's Hearing Summary implied an acknowledgement that MA benefit denial was erroneous and that MDHHS continued to process Petitioner's application. MDHHS testified that Petitioner's application was still not processed because of allegedly unreturned asset verifications; specifically, MDHHS contended that Petitioner returned a bank statement from 2018, but a statement from 2024 was needed.

The dispute over asset verification is not within the scope of the present case's jurisdiction. MDHHS has not taken any adverse action concerning Petitioner's application due to an alleged failure to verify. Without an adverse action based on an alleged failure to verify, there is no basis for administrative hearing jurisdiction.² Petitioner may again request a hearing if MDHHS takes an adverse action.

Given the evidence, MDHHS failed to establish it properly denied Petitioner's application for MA benefits. As a remedy, Petitioner is entitled to a reinstatement and reprocessing of the application.

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a denial of FAP benefits. Petitioner's application dated November ■ 2024, sought FAP benefits as well as MA benefits. Exhibit A, pp. 20-29. A Notice of Case Action dated December ■ 2024, stated that MDHHS denied FAP benefits due to Petitioner's failure to be interviewed. Exhibit B, pp. 1-4.

² Also, MDHHS presented insufficient evidence that assets were properly requested.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.³ BAM 115 (October 2024) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 22. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.*, p. 23. If the client calls to reschedule, the interview should be held no later than the 30th day after application, if possible. *Id.* MDHHS is to not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application. *Id.*, p. 6 and 18.

MDHHS failed to present any evidence that it properly scheduled Petitioner for an interview before denying Petitioner's application on December █ 2024. Nevertheless, MDHHS contended it properly denied Petitioner's application.

MDHHS mailed Petitioner an Appointment Notice on December █ 2024 informing Petitioner of a telephone interview appointment on January █ 2025. MDHHS testified it called Petitioner's AHR on January █ 2025. MDHHS contended that Petitioner's FAP benefit application was properly denied due to Petitioner not answering MDHHS's two calls on January █ 2025. MDHHS's contention is unpersuasive for multiple reasons.

First, MDHHS presented no evidence that it sent Petitioner a Notice of Missed Interview. Had MDHHS properly scheduled Petitioner for a telephone interview before denying the application, a Notice of Missed Interview would have placed Petitioner on notice that it was the client's responsibility to be interviewed. The evidence did not establish that MDHHS sent a Notice of Missed Interview either before Petitioner's application was denied on December █ 2024. The evidence also did not establish that MDHHS sent Petitioner notice after Petitioner's missed interview on January █ 2025.

The evidence also did not establish that MDHHS called the correct phone number on January █ 2025. MDHHS testimony emphasized that Petitioner's AHR (also Petitioner's application representative) reported an incorrect area code the second time she listed her phone number on the application. The analysis will overlook that Petitioner's application included a correct phone number for the AHR. The analysis will also overlook that debatably should have known that it was calling an incorrect phone number because only the only error was one digit in the area code. The Appointment Notice sent by MDHHS stated it was calling Petitioner's phone number which was correctly reported. Exhibit A, p. 31. Because MDHHS did not call the phone number it stated it would call, Petitioner and/or the AHR cannot be blamed for the incorrect number called by MDHHS..

Given the evidence, MDHHS improperly denied Petitioner's application for FAP benefits. As a remedy, Petitioner is entitled to a reinstatement and reprocessing of the application.

DECISION AND ORDER

³ In some circumstances, an in-person interview must be conducted. BAM 115 (January 2024) p. 1. Such circumstances are not relevant to the present case.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP and MA benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's requests for FAP and MA benefits dated November █ 2024;
 - (2) Reprocess Petitioner's MA eligibility subject to the finding that Petitioner did not fail to timely return documents;
 - (3) Reprocess Petitioner's FAP eligibility subject to the finding that MDHHS failed to establish it properly denied FAP benefits due to Petitioner's failure to be interviewed; and
 - (4) Issue notice and supplements, if any, in accordance with policy.
- The actions taken by MDHHS are **REVERSED**.



CHRISTIAN GARDOCKI
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

Via First Class-Electronic Mail:

Authorized Hearing Rep

[REDACTED]
[REDACTED]
[REDACTED]
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Respondent

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[REDACTED]
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