



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 7, 2019
MAHS Docket No.: 18-012660
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 January 2, 2019, from Lansing, Michigan. Petitioner was represented by her Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Dawn McCoy, Hearings Facilitator. During the hearing, a 14-page packet of documents was offered and admitted as Exhibit A, pp. 1-14.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits under the Michigan Combined Application Project (MiCAP)?

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 under the MiCAP until her case closed effective November 1, 2018.
2. On [REDACTED] 2018, Petitioner submitted an application for FAP benefits under the MiCAP. Exhibit A, pp. 6-7.
3. At the time of application, Petitioner received Supplemental Security Income (SSI) in the gross monthly amount of \$510. Exhibit A, pp. 8-10.

4. At the time of application, Petitioner received Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$267. Exhibit A, pp. 8-10.
5. On November 30, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for FAP benefits under the MiCAP was denied because Petitioner receives income from a source other than SSI, rendering her ineligible for the MiCAP. Exhibit A, pp. 11-14.
6. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of her application for benefits.

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.

In this case, Petitioner's FAP case under the MiCAP was closed effective November 1, 2018. Petitioner discovered that fact sometime in November 2018 when she attempted to use her benefits and found out that her EBT card had no funds available. Because she had not received notice that her case was closing, Petitioner had some questions for the Department. Petitioner contacted the Department and requested information regarding her case. The Department then sent Petitioner an application for FAP benefits under the MiCAP, also known as DHS-513. Petitioner submitted that application on November 27, 2018, which was denied via the November 30, 2018 Notice of Case Action.

The MiCAP is a facet of FAP approved by the Food and Nutrition Service (FNS) that allows the Department to issue FAP benefits to SSI individuals who qualify for the program. BEM 618 (April 2018), p. 1. In order to receive FAP benefits under the MiCAP, a client must meet all eligibility factors. BEM 618, p. 1. The targeted MiCAP population consists of individuals with the following characteristics:

1. Age 18 or older;
2. Receives SSI income **and no other type of income;**

3. Meets the Social Security Administration's definition of independent living;
4. Resides in Michigan; and
5. Purchases and prepares food separately.

BEM 618, p. 1.

A simplified application form, DHS-513, is used when determining eligibility for the MiCAP. BEM 618, p. 1.

The Department denied Petitioner's FAP application under the MiCAP because Petitioner receives both SSI and RSDI benefits. As one of the eligibility criteria for MiCAP is that a client must receive SSI and no other type of income, Petitioner was not eligible for MiCAP benefits. Thus, the Department properly found that Petitioner was not eligible for the program. Thus, the Department's decision finding Petitioner ineligible for that program is affirmed.

However, when a client contacts the Department, the Department must provide specific eligibility information on all programs in which they are interested. BAM 105 (January 2018), p. 14. Furthermore, when a person requests assistance from the Department, including by telephone, the person has the right to receive the appropriate application form. BAM 110 (October 2018), p. 1.

In this case, Petitioner contacted the Department to ask about her food benefits. During the conversation, Petitioner informed the Department representative that her EBT card had not been loaded for the month and requested assistance. The Department representative then sent her an application for a program that she was not eligible for while not providing the normal FAP application, DHS-1171. Based on the information available at the time, Petitioner was probably eligible for FAP. As Petitioner asked for assistance concerning FAP, she had a right to receive the appropriate application. Thus, while the Department properly found Petitioner ineligible for FAP under the MiCAP, Petitioner had the right to be properly informed of and provided with the application for FAP benefits, DHS-1171. Because the Department failed to follow Department policy, the Department's decision is reversed.


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. The Department shall reregister Petitioner's application for FAP benefits, effective the date Petitioner submitted the DHS-513;
2. The Department shall issue to Petitioner a DHS-1171 and allow Petitioner a reasonable opportunity to complete the DHS-1171 and return it to the Department;
3. If Petitioner is eligible for FAP benefits, the Department shall issue Petitioner benefits pursuant to Department policy, including any supplements;
4. The Department shall provide Petitioner with written notice of its determination.

JM/hb



John Markey
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Nicolette Vanhavel
235 S Grand Ave Ste 1207
Lansing, MI 48933

MiCAP-Hearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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Authorized Hearing Rep.

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