



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 17, 2019
MOAHR Docket No.: 19-003665
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 8, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Dawn McCoy, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's FAP program change request?

FINDINGS OF FACT

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

1. At all relevant times to the time period herein, Petitioner was a beneficiary of the FAP program, Case No. ██████████
2. On ██████████, 2019, Petitioner applied for FAP assistance through the MICAP project.
3. On January 25, 2019, the Department denied Petitioner's application on the grounds that Petitioner was not a full benefit recipient of the SSI program, and that Petitioner has earned income.
4. On April 16, 2019, Petitioner filed a hearing request.

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.

Here, individuals who qualify can receive FAP benefits under the MICAP program provided certain conditions are met. The program policy benefits are found in BEM 618.

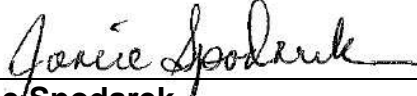
Evidence here indicates that Petitioner was receiving FAP benefits under the regular FAP program, Case No. [REDACTED]. Petitioner applied for FAP benefits through the MICAP program. Under this program, an applicant cannot be working. Unrefuted evidence is that Petitioner had other income. In addition, to be eligible for MICAP an individual must receive full SSI benefits. Unrefuted evidence is that Petitioner was receiving a partial SSI benefit. Under these facts, Petitioner is not eligible pursuant to the authority found in BEM 618 for FAP benefits under the MICAP program. Petitioner did not bring forth any evidence to refute the evidence presented by the Department. Petitioner has not met his burden of proof.

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 denied Petitioner's request to have MICAP FAP benefits along with a regular FAP case. In addition, the denial of MICAP eligibility as a separate case was also in accordance with Department policy found at BEM 618 and federal law.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/dh



Janice/Spodarek
Administrative Law Judge
for Robert Gordon, 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 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 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

DHS MI-CAP SSPC

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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