



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: June 6, 2019
MOAHR Docket No.: 19-004803
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 June 5, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's MA and FAP application?

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 ██████ 2019, Petitioner applied for FAP and MA.
2. On April 26, 2019, Respondent denied Petitioner's FAP and MA applications.
3. At the administrative hearing the Department stipulated that the Department failed to correctly process the applications due to not including Petitioner's spouse in the FAP group as a mandatory member and requiring tax returns for her spouse which are not required.
4. On May 6, 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.

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.

In this case, applicable policy is found primarily at BAM 500, 502, 502, 504, 255, and 400. Corresponding FAP regulations are found primarily at 7 CFR 273.2, 273.9, 273.10, 273.11, and 273.2.

Here, the Department could not present clear or meaningful evidence as to what was done in this case, and/or the authority relied on. The Department stipulated at the administrative hearing that Petitioner's applications were not processed correctly and should be reprocessed from the date of application ongoing. On this basis, the action herein must be reversed.

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 did not act in accordance with Department policy when it denied Petitioner's April 3, 2019, FAP and MA applications.

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. Reinstate Petitioner's April 3, 2019, application date for both an MA and FAP application, and
2. Reprocess Petitioner's FAP and MA applications in accordance with Department policy and procedure, and
3. Issue any supplemental benefits to Petitioner to which she may be entitled, and
4. Issue written notice to Petitioner as to the outcome of the reprocessing of Petitioner's applications including notice of the right to an administrative hearing should Petitioner dispute the outcome of the reprocessing, back to the April 3, 2019, date of application.

IT IS SO ORDERED.

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

Department Representative

Office of Child Support (OCS)-MDHHS
201 N Washington Square
Lansing, MI 48933

DHHS

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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