



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: August 15, 2019
MOAHR Docket No.: 19-007004
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 July 31, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Territa Rivers-Jones, Family Independence Manager.

During the hearing, it became apparent that the documents in the hearing packet prepared by the Department were insufficient and largely irrelevant to the issues in this case. After discussing the issue, the parties stipulated to the admission of the following documents as an exhibit: (1) an [REDACTED], 2019 application for assistance; (2) an April 11, 2019 Notice of Case Action; (3) an April 16, 2019 Notice of Case Action; (4) a May 7, 2019 Notice of Case Action; (5) a June 26, 2019 Notice of Case Action; and (6) a Health Care Coverage Determination Notice of an unknown date. Ms. Rivers-Jones was directed to print off a copy of each of the above listed documents and fax them to my office, at which point the documents would be marked as an exhibit in this matter. Those documents were never received. However, the hearing packet already did contain the [REDACTED], 2019 assistance application. The April 3, 2019 assistance application is Exhibit A, pp. 1-17.

ISSUE

Did the Department properly process Petitioner's [REDACTED], 2019 application for Family Independence Program (FIP) cash assistance?

Did the Department properly process Petitioner's [REDACTED], 2019 application for Medicaid (MA) benefits?

Did the Department properly process Petitioner's [REDACTED], 2019 application for Food Assistance Program (FAP) benefits?

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 benefits from the Department in a household that, according to the Department, included only Petitioner and her adult son, Deshawn Anthony Richard.
2. On [REDACTED] 2019, Petitioner submitted to the Department an application for FIP cash assistance, MA benefits, and FAP benefits for her minor son, [REDACTED]. Specifically, Petitioner wanted [REDACTED] to be added to her case as he had lived with her for an extended period of time. Exhibit A, pp. 1-17.
3. From April 11, 2019 through at least June 26, 2019, the Department issued to Petitioner four documents titled Notice of Case Action and another document titled Health Care Coverage Determination Notice. Each of the notices informed Petitioner that her request to add [REDACTED] to her case was denied because [REDACTED] was active on his father's assistance case. Despite Petitioner's repeated assertions that [REDACTED] had not lived with his father in quite some time and was not even able to live with his father as his father was incarcerated, the Department persisted with its conclusion that [REDACTED] lived with his father. The Department based that conclusion off of an investigation into the same issue it conducted in 2015.
4. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions taken with respect to her FIP cash assistance, MA benefits, and FAP benefits application.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

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, the Department declined to add Petitioner's son, [REDACTED], to Petitioner's benefits cases because Aaron was apparently active on his father's assistance case. In making that decision, the Department relied upon a 2015 investigation into the matter, despite Petitioner adamantly stating that circumstances had changed. Namely, [REDACTED] father was incarcerated, and [REDACTED] had been living with Petitioner for quite some time. The Department did not take anything that Petitioner said into consideration and simply rested upon its outdated conclusion from nearly four years prior.

Each of the programs Petitioner applied for require a finding regarding household makeup, and that finding has an impact on eligibility. BEM 210 (April 2017), p. 2; BEM 211 (February 2019), p. 1; BEM 212 (April 2019), p. 1. Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department

met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

Petitioner requested a hearing to dispute the Department's determination that [REDACTED] did not live with her, which was a decision that impacted eligibility for assistance. In preparation for the hearing, the Department put together a hearing packet that failed in nearly all respects to adhere to the rules governing such preparation. Notably, the packet included none of the Notices of Case Action or Health Care Coverage Determination Notices that formed the basis of Petitioner's request for hearing. Additionally, the documents presented by the Department show that the Department failed to conduct an even remotely adequate investigation into Petitioner's assertion that [REDACTED] lived at her home with her. When an eligibility related factor is unclear or the Department receives conflicting information, it has a duty to investigate the matter, which includes the issuance of a Verification Checklist. BAM 130 (April 2017), p. 1. In this case, the Department simply relied upon a 2015 investigation and concluded that nothing had changed in the four years subsequent. That conclusion was unreasonable for many reasons, not least of all the fact that it completely ignored new evidence in favor of a conclusion from years before.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's April 3, 2019 application for FIP cash assistance, MA benefits, and FAP benefits.

DECISION AND ORDER

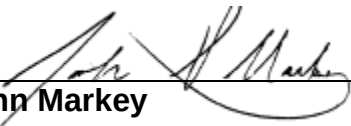
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's [REDACTED] 2019 application for FIP cash assistance, MA benefits, and FAP benefits;
2. Remove [REDACTED] from his father's benefit case and add [REDACTED] to Petitioner's case;
3. If any eligibility-related factors are unclear, inconsistent, contradictory, or incomplete, follow Department policy in obtaining verifications;
4. Determine Petitioner's eligibility for FIP cash assistance, MA benefits, and FAP benefits from the date of application, ongoing;
5. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is promptly issue; and

6. Notify Petitioner in writing of its decisions.

JM/cg


John Markey
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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Wayne-76-Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]