



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 26, 2019
MOAHR Docket No.: 19-007850
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 7 CFR 273.15; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 205.10; and Mich Admin Code R 792.11002. After due notice, a telephone hearing was held on August 22, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented himself. Family Independence Manager, Territa Rivers-Jones, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 14-page packet of documents provided by the Department was admitted as the Department's Exhibit A.

ISSUES

Did the Department properly determine Petitioner's eligibility for Family Independence Program (FIP) assistance?

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 [REDACTED] [REDACTED] 2019, Petitioner applied for assistance from the Department, including FIP, FAP, and MA. When Petitioner applied for assistance, Petitioner advised the Department that his household included his two dependent children.

2. Petitioner had custody of his two dependent children at the time he applied.
3. The Department reviewed Petitioner's application and determined that his two dependent children were active on their mother's case for MA and FAP. The Department was providing full-coverage MA for the children through their mother's case, which was not due for redetermination until April 2020. The Department was issuing FAP benefits for the children through their mother's case too.
4. Petitioner was unaware that his two dependent children were receiving MA and FAP benefits through their mother's case.
5. The Department budgeted for Petitioner's assistance based on a household size of one because the Department excluded Petitioner's two dependent children since they were active on their mother's case. The Department determined that Petitioner was ineligible for FIP and FAP benefits, and the Department determined that Petitioner was eligible for MA with a deductible.
6. On July 8, 2019, the Department issued a notice of case action to notify Petitioner that his request for FIP and FAP benefits was denied because his earnings exceeded the Department's limit.
7. On July 10, 2019, the Department issued a notice of case action to notify Petitioner that he was eligible for MA with a deductible. The notice also notified Petitioner that his children were ineligible for MA because they were active on another case.
8. On July 19, 2019, Petitioner filed a hearing request to dispute the Department's decisions.

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).

CASH ASSISTANCE

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 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.

Here, the Department determined that Petitioner's household did not include his two dependent children for purposes of FIP. The Department's determination of Petitioner's group size for FIP was not in accordance with its policies. Petitioner's two dependent children were active on their mother's case, and Petitioner applied for assistance and advised the Department that they were living in his household. At that time, when the Department had conflicting information about the primary caretaker of the children, the Department was responsible for investigating to determine the children's primary caretaker. BEM 210 (April 1, 2019), p. 11-12. The Department did not present any evidence to establish that it investigated and determined the children's primary caretaker. Rather, it appears that the Department simply determined that the children were active on another case and then issued a denial because the children were active on another case.

The Department asserted that its action was in accordance with its policies because an individual cannot receive assistance on more than one case at a time. While it is true that an individual cannot receive the same assistance on more than one case at a time, the Department still had an obligation to determine which case Petitioner's two dependent children should have been receiving assistance on before it issued its decision.

FOOD ASSISTANCE

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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Again, the Department determined that Petitioner's household did not include his two dependent children. For the same reasons as described in the cash assistance section, the Department's determination of Petitioner's group size of FAP was not in accordance with its policies. BEM 212 (July 1, 2019), p. 5.

Further, even if Petitioner's correct group size would have been one, the Department did not present sufficient evidence to establish that it properly determined the FAP benefit Petitioner was eligible for. Specifically, the Department did not present any evidence of the budget it used to determine Petitioner's FAP eligibility. Without the budget information, the undersigned is unable to determine whether the Department made the correct determination pursuant to its policies and the applicable law.

MEDICAL ASSISTANCE

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner's two dependent children currently have full-coverage medical assistance, albeit under their mother's case. The Department asserted that Petitioner's two children cannot be transferred to his case for MA until they are due for redetermination, but the Department did not cite any authority for its position. It is unclear if any authority supports the Department's position. Pursuant to BAM 220, the Department may remove a recipient from MA with adequate notice when the recipient is eligible in another case. BAM 220 (April 1, 2019), p. 3-4.

Further, the Department did not present sufficient evidence to establish that it properly determined Petitioner's eligibility for MA. Specifically, the Department did not present any evidence of the budget it used to determine Petitioner's MA eligibility. Without the budget information, the undersigned is unable to determine whether the Department made the correct determination pursuant to its policies and the applicable law.

DECISION AND ORDER

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 its policies and the applicable law when it determined Petitioner's eligibility for FIP, FAP, and MA.

IT IS ORDERED the Department's decisions are **REVERSED**. The Department shall initiate a review of Petitioner's eligibility for FIP, FAP, and MA consistent with this decision. The Department shall begin to implement this decision within 10 days.

JK/nr



Jeffrey Kemm
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

DHHS

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne 76 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]