



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: January 10, 2020
MOAHR Docket No.: 19-012983
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, 2020, from Lansing, Michigan. The Petitioner was represented by herself. No one appeared for the Department of Health and Human Services (Department). Numerous calls were placed to the local office and the office of child support, but no response was received. Department Exhibit A-I were admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits Child Development and Care (CDC) benefits, Medical Assistance (MA) and State Emergency Relief (SER)?

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 October 15, 2019, Petitioner applied for MA, CDC and SER.
2. On October 16, 2019, Petitioner submitted a statement that reads as follows: "The \$150 is for water deposit. I have no proof that Detroit Water Sewage requests this."
3. On October 17, 2019, the Department denied Petitioner's SER application.
4. On October 17, 2019, Notice of Case Action was sent to Petitioner informing her that FIP and CDC were denied due to excess income.

5. On November 11, 2019, Petitioner was placed in non-cooperative with the Office of Child Support.
6. On November 26, 2019, Petitioner requested hearing disputing MA, CDC, FAP and SER determinations.
7. No one appeared for the Department at hearing.
8. Petitioner appeared and testified at hearing.
9. Petitioner receives RSDI \$ [REDACTED] for herself and \$ [REDACTED] for her daughter per month.
10. At an unknown time, Petitioner applied for FAP 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.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly

known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255

Allowable treatment activities may include, but are not limited to the following:

- Hospitalization.
- Physical therapy.
- Occupational therapy.
- Speech therapy.
- Counseling sessions.
- Alcoholics Anonymous (AA) meetings.
- Narcotics Anonymous (NA) meetings.
- Parenting classes.
- Support classes.
- Food and nutrition classes.
- Court-ordered community service.
- Money management classes. BEM 525

Covered Services

The following are covered utility services:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel. ERM 302

In this case, Petitioner appeared at hearing and credibly testified that she has provided all information available to her about the father of her child. No one appeared for the Department at hearing. Therefore, there was no basis to place Petitioner in non-cooperation with the office of child support. BEM 255

With regard to MA, Petitioner was dissatisfied with the MA program she was found eligible for. No information was provided showing what MA program Petitioner is eligible for. Petitioner should be considered for all MA Programs and notice should be sent to her explaining which MA program she is eligible for. Petitioner also disagreed with the determination that she was not eligible for Medicare Cost Share programs. Petitioner receives SSD and Medicare and she should be considered for the Medicare Savings Programs.

With regard to CDC, Petitioner has \$1818 unearned income per month. Petitioner goes to physical therapy two days per week. Petitioner is under the gross income limits. RFT 270. Petitioner has had need for CDC due to physical therapy. BEM 525

With regard to SER, Petitioner was denied because she did not have a past due balance or shutoff notice. (Ex. C) Petitioner was seeking assistance to begin water service and she would not have had a past due balance or shutoff notice. Petitioner's handwritten letter was not sufficient to verify her need for utility assistance, but the denial reason stated on the SER Decision Notice was incorrect. ERM 302 Petitioner's application for SER should be reinstated and verification of need for assistance to begin water utility should be requested of her.

With regard to FAP, Petitioner disputed the denial of her FAP application. No information was provided by the Department regarding Petitioner's FAP application. Petitioner's application for FAP should be reinstated and reprocessed. 7 CFR § 273.2

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 determined Petitioner's eligibility for MA, CDC, SER and FAP.

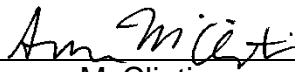
DECISION AND ORDER

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. Lift the child support non-cooperation sanction from Petitioner's case.
2. Consider Petitioner for all MA programs and activate coverage for the MA program that is most advantageous for Petitioner.
3. Consider Petitioner for Medicare Cost Share programs and award her benefits if she is found eligible.
4. Reinstate and process Petitioner's application for CDC back to the date of application and award benefits if she is found eligible.
5. Reinstate and reprocess Petitioner's application for FAP back to the date of application and award benefits if she is found eligible.

AM/nr



Aaron McClintic
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

LaClair Winbush
17455 Grand River
Detroit, MI
48227

Wayne 31 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

L. Brewer-Walraven- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Department Representative

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

Petitioner

[REDACTED] via first class mail
[REDACTED]
[REDACTED] MI
[REDACTED]