



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 23, 2020
MOAHR Docket No.: 20-006139
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 October 22, 2020.

Petitioner was represented by [REDACTED], Power of Attorney (POA).

The Department of Health and Human Services (Department) was represented by R. Carter, APW with the Michigan Combined Application Project (MiCAP) program.

Department Exhibit A.24 was offered and admitted into the record.

ISSUE

Did the Department properly deny Petitioner's MiCAP 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 [REDACTED], 2020, Petitioner filed a MiCAP application.
2. On September 17, 2020, the Respondent issued a Notice of Case Action (DHS-1605) denying Petitioner's application due to Petitioner receiving both SSI and RSDI income. Exhibits A.13-17.
3. On September 21, 2020, Petitioner requested a hearing.

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 primary MDHHS policy is found at BEM 613. Applicable federal authority is cited in that policy as Food and Nutrition Act of 2008, as amended; 7 USC 2026.

Individuals who are asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence standard.

Policy specific to the facts herein regarding the MiCAP program states in part:

FAP

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows Michigan Department of Health and Human Services (MDHHS) to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program.

The program is administered by the centrally located MiCAP unit. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit.

All eligibility factors in this item must be met.

MiCAP Targeted Population

The targeted MiCAP population is SSI individuals with the following characteristics:

- Age 18 or older.
- Receives SSI income and no other type of income.
- Meets the Social Security Administrations (SSA) definition of independent living (Living arrangement code A). BEM 618, Page 1.
- Resides in Michigan.
- Purchases and prepares food separately. BEM 618, Page 1.

Here, unrefuted evidence is that Petitioner receives both SSI and RSDI income. The Department argues that under BEM 618, Petitioner is not eligible for the MiCAP program. Petitioner argues that the program requirements are not fair.

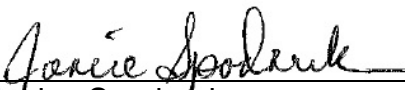
Here, unrefuted evidence of record is that Petitioner receives income other than SSI income. There is no policy or corresponding federal authority that carves out any exceptions based on amount of income received from each source. The undersigned Administrative Law Judge would agree that under these facts, it seem unfair. However, and unfortunately, fairness is not a reason that would allow the undersigned to grant benefits to Petitioner where policy and law does not authorize otherwise. As such, under these facts, the Department's denial must be upheld.

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 MiCAP application.

DECISION AND ORDER

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

JS/ml



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

DHHS

Nicolette Vanhavel
DHS MI-CAP SSPC – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

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

Authorized Hearing Rep.

[REDACTED]
[REDACTED] MI [REDACTED]