



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 10, 2019
MAHS Docket No.: 18-011216
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 13, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly process the Petitioner's Direct Support Services (DSS) for car purchase?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for DSS and was approved on September 24, 2018. (Exhibit A, pp. 5-6.)
2. On September 24, 2018, the Department issued a Notice of Case Action approving DSS for a vehicle purchase in the amount of \$ [REDACTED] (Exhibit A, pp. 15-17.)
3. A DSS Authorization also indicates and approval for vehicle purchase for \$ [REDACTED] on September 24, 2018. (Exhibit A, p.14.)
4. The vendor selling the car to Petitioner was not entered into the Sigma System until December 10, 2018; and thus, no payment was made.

5. The Department conceded at the hearing that the vendor of the car had not received a DSS payment as approved by its September 24, 2018, Notice of Case Action approving the services, and Petitioner had not received the car.
6. The Petitioner requested a timely hearing on October 24, 2018, requesting the Department fund the purchase of the car for Petitioner.

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).

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

In this case, the Department approved the Petitioner for DSS purchase of a car and issued a Notice of Case Action confirming same. As of the date of the hearing, the payment to the vendor of the car had not been made or processed by the Department. The Department presented no evidence to the contrary other than case notes read into the record indicating that the vendor had been approved on December 10, 2018, in Sigma, the State of Michigan system, from which payments to vendors are made. Thus, notwithstanding its approval of DSS on September 24, 2018, the Department did not demonstrate that final processing had been made at the time of the hearing conducted on December 13, 2018.

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 failed to demonstrate that the Petitioner's approval for DSS services had been processed as approved by the Department.

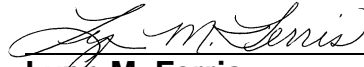
DECISION AND ORDER

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. The Department shall take any and all steps necessary to complete processing of its approval of Petitioner for DDS services and complete purchase of the car on her behalf based upon the Department's September 24, 2018, approval.

LMF/jaf



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS 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

DHHS

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

Petitioner

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L M Ferris
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