



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: December 5, 2019  
MOAHR Docket No.: 19-011225  
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 December 4, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Stephanie Avery, Assistance Payments Worker. During the hearing, a 22-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-22.

### **ISSUE**

Did the Department properly process Petitioner's [REDACTED], 2019 application for assistance with an auto repair through the Direct Support Services (DSS) program?

### **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 is an ongoing recipient of Medicaid and Food Assistance Program benefits from the Department.
2. On [REDACTED] 2019, Petitioner submitted to the Department an application for DSS benefits to assist her with an auto repair. Exhibit A, pp. 10-14.
3. Petitioner provided to the Department all of the documentation necessary to determine her eligibility for DSS benefits, including an estimate showing the repair would cost approximately [REDACTED], her driver's license, her proof of insurance, her

certificate of title showing ownership of the vehicle, and verification that her prospective employment was contingent upon her having transportation. Those documents were submitted at the time of application or shortly thereafter. Exhibit A, pp. 7-9; 15-22.

4. According to the Hearing Summary, which was issued on October 18, 2019, Petitioner “has provided these proofs...and the car repair is pending a determination for eligibility. The grantee is still requesting a hearing to date.” Exhibit A, p. 1.
5. As of the date of the hearing, the Department had not processed Petitioner’s DSS application.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department’s delay and lack of communication in processing her DSS 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).

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. DSS are goods and services provided to help families achieve self-sufficiency. BEM 232 (October 2018), p. 1. The decision to authorize DSS is within the discretion of the Department, based on local office funding. BEM 232, p. 1.

In this case, Petitioner is objecting to the manner in which the Department has been processing her [REDACTED] 2019 application for DSS benefits to assist her with repairing her vehicle. During the hearing, the Department witness conceded that the Department has had all of the information it needed to make an eligibility determination since well before the hearing request was filed on [REDACTED], 2019. Despite having all of the information needed for months, the Department had still not made a determination as of the date of this writing.

The Department will provide funds for vehicle repairs for vehicles that are the primary means of transportation for employment-related activities. BEM 232, p. 16. Before authorizing a major vehicle repair, the Department must ensure the following conditions are met: (i) an eligible group member owns the vehicle; (ii) the client requesting the service has a valid driver’s license; and (iii) the repair is expected to make the vehicle safe and roadworthy including new tires, headlamps batteries, etc. BEM 232, p. 16. A

vehicle may be repaired for a currently employed client if the client needs a vehicle to accept a verified offer of a better job or needs a vehicle to retain current employment; and has a demonstrated ability to maintain a job. BEM 232, p. 16. A vehicle may also be repaired for a client who is not currently employed if the client needs a vehicle to accept a verified job offer; or needs a vehicle to participate in family self-sufficiency activities that will prepare the client for employment. BEM 232, p. 16.

Petitioner submitted the application on [REDACTED], 2019. Within a short period, she had submitted to the Department everything the Department needed to make a determination of eligibility. No determination has been forthcoming, however. During the hearing, the Department witness explained how DSS applications are processed by the Department. She explained that because the program is discretionary and clients have no entitlement to DSS, the Department is not subject to any standards of promptness.

While the Department's policies do not directly define a specific standard of promptness for DSS applications, they do impose a general rule requiring the Department to process applications as quickly as possible. BAM 115 (April 2019), p. 16. Based on the evidence presented in this case, it is impossible to conclude that the Department has fulfilled that obligation. Rather, it appears as though the Department has not been processing her application at all, at least after the paperwork was all submitted.

Clients are entitled to prompt processing of their benefit applications, regardless of whether they are ultimately found to be eligible. That is particularly the case in situations where time is of the essence, as it is here with an auto repair needed to facilitate the acquisition of gainful employment.

While it is found that the Department violated policy by unreasonably delaying the processing of Petitioner's application, left undecided is whether Petitioner is eligible for DSS benefits. That decision must first be made by the Department. If Petitioner is unhappy with the Department's decision on that question, she may contest that decision by filing a valid hearing request with the Department, at which point she will receive a hearing on that issue.

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 delayed processing Petitioner's [REDACTED] 2019 DSS application.

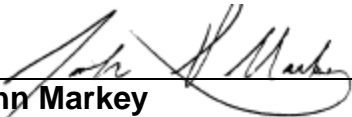
**DECISION AND ORDER**

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. Promptly process Petitioner's DSS application and make a determination as quickly as possible;
2. If Petitioner is found to be eligible, ensure that the payment is promptly issued;
3. Notify Petitioner in writing of its decisions, including the reasons therefor.

JM/tm

  
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**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

**DHHS**

LaClair Winbush  
17455 Grand River  
Detroit, MI  
48227

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: DSS: D. Sweeney  
AP Specialist-Wayne County