



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], MI [REDACTED]

Date Mailed: May 19, 2021
MOAHR Docket No.: 21-001987
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 17, 2021, from Detroit, Michigan. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Sara King, Assistance Payments Supervisor.

ISSUE

Did the Department failed to provide Petitioner with Direct Support Services (DSS)?

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 was an ongoing Food Assistance Program (FAP) benefit recipient.
2. In the first quarter of 2020, Petitioner was employed and working three to six hours per week.
3. In the first quarter of 2020, Petitioner was completing her remaining Time Limited Food Assistance (TLFA) requirements by participating at MiWorks!.
4. On January 23, 2020, Petitioner was provided DSS in the form of clothing for work in the amount of \$ [REDACTED] (Exhibit A, p. 6).
5. On January 23, 2020, Petitioner was provided DSS in the form of a bus pass in the amount of \$ [REDACTED] (Exhibit A, p. 6).

6. Effective February 20, 2020, Petitioner was no longer eligible for DSS (Exhibit A, p. 6).
7. On February 25, 2020, Petitioner was verbally notified she could not receive DSS in the form of a bus pass because she was not eligible for DSS (Exhibit A, p. 6).
8. On March 6, 2020, Petitioner was rereferred to MiWorks! but was notified she was ineligible for DSS (Exhibit A, p. 6).
9. On March 23, 2020, Petitioner was deferred from TLFA work requirements.
10. On [REDACTED], 2021, Petitioner submitted a request for hearing alleging she was still entitled to DSS.

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, Petitioner was an ongoing FAP recipient in the first quarter of 2020. Petitioner was meeting her TLFA work requirements by working three to six hours per week, as well as participating in work-related activities at MiWorks! In January 2020, Petitioner was provided with DSS in the form of payment for work clothes and a monthly bus pass. However, in February 2020, Petitioner's FAP benefit case closed, making her ineligible for DSS. The Department testified that Petitioner's FAP benefit case was closed in error and was subsequently reinstated. Petitioner was referred to MiWorks!. Petitioner was notified that she was not eligible for DSS because she was categorized as a new referral and she was currently employed, making her ineligible for DSS.

DSS are goods and services provided to help families achieve self-sufficiency. BEM 232 (January 2020), p. 1. There is not entitlement for DSS. BEM 232, p. 1. The decision to authorize DSS is within the discretion of the Department, based on local funding. BEM 232, p. 1. Funds for DSS for FAP families are allocated to local offices annually. BEM 232, p. 2. Local offices must prioritize the services provided to assure expenditures do not exceed their allocation. BEM 232, p. 2. For FAP recipients, DSS is only available if: (i) no other resource is available; (ii) the family is applying for or receiving FAP; and (iii) the FAP recipient did not receive DSS for more than four consecutive months. BEM 232, p. 4. Covered services include clothing for work and transportation costs. BEM 232, p. 13. For transportation costs, job site transportation is limited to three months. BEM 232, p. 14. Compensation is actual cost for public transportation or based on the

IRS standard mileage reimbursement (currently 58 cents per mile) for a private vehicle. BEM 232, p. 14. Payment methods for transportation costs include: (i) payment directly to the participant; (ii) payment to a provider for a specific participant; (iii) payment to a provider for a number of participants; and (iv) bulk purchase of bus tickets/tokens or gas cards to be issued to individual participants but paid for or redeemed as a group. BEM 232, p. 15. Care should be taken when purchasing bulk gas or gift-type cards that guarantees clients are not able to purchase prohibited items. BEM 232, p. 15. Best practice is to work with a provider and obtain cards that only allow for the purchase of gas, clothing, or other expense intended by the card. BEM 232, p. 15. Prohibited expenditures include gift or gas cards that are not restricted to specific purchases or services. BEM 232, p. 31. DSS have payment maximums designated by service BEM 232, p. 8.

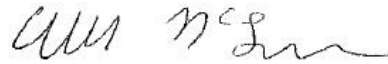
At the hearing, Petitioner alleged that the Department improperly closed her FAP benefit case, making her ineligible for DSS. Petitioner testified that she believed she was entitled to \$30 per month in transportation costs for March 2020, ongoing. Petitioner stated that she was seeking reimbursement for transportation costs. Petitioner stated that she provided gas money to friends and family for giving her rides to and from work throughout 2020. Petitioner testified that she did not keep an exact accounting of the funds provided or the mileage expended during this time period. Petitioner stated she estimated the cost of transportation and felt she was entitled to the maximum amount allowed by policy.

Petitioner is not entitled to reimbursement for potential DSS. Petitioner argued that she was entitled to DSS services throughout 2020. Job site transportation is limited to three months. Petitioner was provided with a bus pass in January 2020, making her only eligible for two additional months. Additionally, for private vehicles, compensation is based on actual mileage reimbursement. Petitioner stated that she was “winging” her estimate as to the amount of mileage related to her transportation to and from work. As mileage reimbursement is based on actual mileage, Petitioner’s estimate is insufficient. More importantly, policy specifically states that clients are not entitled to DSS. The Department has the discretion to authorize DSS. Therefore, the Department acted in accordance with policy when it did not authorize DSS payments to Petitioner.

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 acted in accordance with Department policy when it did not issue DSS to Petitioner. Accordingly, the Department's decision is **AFFIRMED**.

EM/jem



Ellen McLemore

Administrative Law Judge
for Elizabeth Hertel, 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

Via Email:

MDHHS-Monroe-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED], MI [REDACTED]