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GOVERNOR

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

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DIRECTOR

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██████████ MI 48044

Date Mailed: July 2, 2021  
MOAHR Docket No.: 21-002489  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 hearing was held via telephone conference line on June 28, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cristina Tanzini, hearings facilitator.

### **ISSUES**

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS properly denied Petitioner's application for Medical Assistance (MA) benefits.

### **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 ██████████ 2021, Petitioner applied for MA benefits and reported a household that included only herself and ██████████ (DOB ██████████ 2021), Petitioner's son (hereinafter, "Son").
2. On ██████████ 2021, Petitioner applied for FAP benefits and reported a household that included only herself and Son.
3. On April 26, 2021, during a FAP application interview, Petitioner reported to MDHHS living with a spouse and monthly gift income of ██████████ from her parents.

4. On April 26, 2021, MDHHS approved MA for Petitioner and Son for February and denied MA for both beginning March 2021.
5. On April 26, 2021, MDHHS denied Petitioner's FAP eligibility due to excess net income.
6. On [REDACTED] 2021, Petitioner requested a hearing to dispute the denials of FAP and Son's MA benefits.
7. On [REDACTED] 2021, MDHHS re-registered Petitioner's application for FAP benefits.
8. On May 19, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of gift income. Petitioner's due date was June 1, 2021.
9. On June 4, 2021, MDHHS denied Petitioner's FAP application due to a failure to verify income.
10. As of June 4, 2021, Petitioner failed to return to MDHHS verification of gift income.

### **CONCLUSIONS OF LAW**

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denied application requesting FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED] 2021. Exhibit A, pp. 12-17. MDHHS originally denied Petitioner's application on [REDACTED], 2021, due to excess net income. Exhibit A, pp. 21-24. After Petitioner requested a hearing, MDHHS re-registered Petitioner's application but again denied it. MDHHS credibly testified that it sent notice of the second denial on June 4, 2021, and the denial was due to Petitioner's failure to verify gift income.

A donation to an individual by family or friends is the individual's unearned income. BEM 503 (January 2021) p. 1. MDHHS is to count the gross amount actually received, if the individual making the donation and the recipient are not members of the benefit group. *Id.* For FAP benefits, MDHHS is to verify income at application. BEM 505 (October 2017) p. 14.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to send a VCL to request

verification. *Id.* MDHHS is to allow the client at least 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

During an application interview on April 26, 2021, MDHHS documented that Petitioner reported receipt of a monthly [REDACTED] gift from her parents. Exhibit A, pp. 18-20. MDHHS sent Petitioner a VCL on May 19, 2021, giving Petitioner until June 1, 2021, to return proof of the gift income. Exhibit A, pp. 25-26. Petitioner's testimony acknowledged that she did not return proof of the income by the VCL due date or notice of case closure three days later.

Petitioner testified that she thought that the VCL request concerned her husband's unemployment income, which she did verify. Exhibit A, p. 35. The VCL specifically asked for a letter or document from the persons making "donation or contribution from...an individual outside the Group". Exhibit A, p. 25. Petitioner's husband was a mandatory FAP group member.<sup>1</sup> Though Petitioner did not report living with her spouse on her application, she should have known that a request for proof of contributions of members outside of the group was not a request for proof of her spouse's unemployment income.

The evidence established that MDHHS properly requested proof of Petitioner's income from contributions/donations and that Petitioner failed to return verification. Thus, MDHHS properly denied Petitioner's application for FAP benefits.

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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a denial of MA eligibility. Exhibit A, pp. 3-4. Petitioner applied for MA benefits on [REDACTED], 2021. Exhibit A, pp. 28-32. Petitioner testified that her only dispute concerned the denial of Son's eligibility. A Health Care Coverage Determination Notice dated April 26, 2021, stated that Son was approved MA for February 2021, but denied MA beginning March 2021 due to a failure to verify information.<sup>2</sup> Exhibit A, pp. 8-11. MDHHS testimony clarified that Petitioner specifically failed to verify contribution/donation income from her parents.

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<sup>1</sup> Spouses who reside with each other must be in the same group. BEM 212 (October 2020) p. 1.

<sup>2</sup> The notice also stated that denial was proper because no group member was an eligible child. MDHHS presented no evidence to justify denial for this reason.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As of Petitioner's MA application date, Son was less than a month old. As a newborn child, Son was potentially eligible for MA under the categories of HMP, Low-Income Family, and Children Under 19 (CU19).<sup>3</sup> CU19 policy is located in BEM 131.

As concluded in the FAP analysis, Petitioner failed to verify contribution/donation income from her parents. However, for a denial based on a failure to verify to be justified, the request for verification must be justified.

For CU19, income and expenses, including self-employment, are not to be verified. BEM 500 (July 2020) p. 14. For CU19, a client statement is an acceptable verification source for income and income-related expenses. *Id.*

MDHHS cannot deny MA for a failure to verify information when there is no requirement to verify. Thus, MDHHS improperly denied MA to Son. As a remedy, MDHHS must reprocess Son's application for MA under CU19 without requiring verification.

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<sup>3</sup> CU19 is also known as Healthy Kids.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Son's application for MA benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Son's application for MA benefits dated [REDACTED], 2021;
- (2) Process Son's CU19 eligibility subject to the finding that MDHHS improperly required proof of donation/contribution income; and
- (3) Issue supplements, if any, and updated notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/tm



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**Christian Gardocki**  
Administrative Law Judge

**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-Macomb-36-Hearings  
M. Holden  
D. Sweeney  
C. George  
EQADHearings  
BSC4  
MOAHR

**Petitioner – Via First-Class Mail:**

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