



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████ ██████████
██████████ ██████████ ██████████
██████████ MI ██████████

Date Mailed: May 3, 2022
MOAHR Docket No.: 22-001141
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 April 18, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Andrea Motley, Assistant Payment Worker.

It is noted that although Exhibit E was discussed and admitted as evidence during the hearing, the Department representative failed to timely file the documents with the undersigned after the hearing as instructed. Thus, Exhibit E is excluded from the formal record and only Exhibit A, B, C, and D, which were properly filed and admitted, remain.

ISSUES

1. Did MDHHS properly calculate Petitioner’s Food Assistance Program (FAP) budget to determine her monthly FAP amount?
2. Did MDHHS properly deny Petitioner’s Family Independence Program (FIP) application?
3. Did MDHHS timely process Petitioner’s Medical Assistance (MA) 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 ██████████ 2021, MDHHS received an application for FAP for Petitioner and her three minor children: ██████████ ██████████, ██████████ ██████████, and ██████████ ██████████. Petitioner also applied for MA for ██████████ ██████████, ██████████ ██████████, and herself. Petitioner reported that:

- a. Her household consisted of her three minor children and herself and contained no senior (over 60 years old), disabled, or disabled veteran (S/D/V) group members.
- b. Petitioner's minor child [REDACTED] [REDACTED] has active MA.
- c. Petitioner works for Beaumont Hospital (Employer) 20 hours per week, paid \$[REDACTED] per week, paid bi-weekly.
- d. Petitioner receives \$[REDACTED] per month in child support for two of her children.
- e. Petitioner pays childcare in the amount of \$535.00 bi-weekly.
- f. Petitioner pays \$650.00 per month in housing expenses and is responsible for paying for her own utilities.

(Exhibit A, pp. 30-38).

2. On February 14, 2022, MDHHS received Petitioner's Semi-Annual Contact Review for her household's FAP benefits (Exhibit A, pp. 27-29). MDHHS logged but did not process this renewal.
3. On [REDACTED] 2022, Petitioner submitted an application for FAP, FIP, and MA reporting that:
 - a. Her household consisted of her three minor children and herself and contained no senior (over 60 years old), disabled, or disabled veteran (S/D/V) group members.
 - b. Her child, [REDACTED] [REDACTED], receives MA.
 - c. Petitioner is employed at Employer working 20 hours per week paid \$[REDACTED] per hour.
 - d. Petitioner receives \$[REDACTED] per month in child support for two of her children.
 - e. Petitioner pays childcare in the amount of \$535.00 bi-weekly.
 - f. Petitioner pays \$650.00 per month in housing expenses and is responsible for paying for her own utilities.

(Exhibit A, pp. 17-26)

4. On March 17, 2022, MDHHS received a hearing request from Petitioner regarding the status of her applications for FAP, FIP, and MA (Exhibit A, pp. 4-5).

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).

Food Assistance Program (FAP)

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.

On February 14, 2022, MDHHS received Petitioner's Semi-Annual Contact Review for her household's FAP benefits. MDHHS testified that they logged this review as received timely but did not process it. After no response from MDHHS, Petitioner testified that she submitted a new application for FAP on [REDACTED] 2022. This was not processed by MDHHS. Once Petitioner submitted a request for hearing, MDHHS testified that they processed Petitioner's Semi-Annual Contact Review for FAP benefits in lieu of the FAP application submitted on [REDACTED] 2022. On [REDACTED] 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that she is approved to receive \$ [REDACTED] monthly in FAP benefits for a group size of four based upon \$ [REDACTED] in earned income. Despite the delay in MDHHS processing Petitioner's review and application for FAP, Petitioner testified that she received her FAP benefits timely each month. Petitioner received her final paycheck from Employer on March 25, 2022 and MDHHS updated her income information after the Pre-Hearing Conference, effective April 30, 2022 (see Exhibit B, pp. 1-2). Due to the Covid-19 public health emergency, Petitioner is receiving the maximum amount of monthly FAP benefits for her group size each month. Since Petitioner's group size has remained the same throughout these months there has been no loss of FAP benefits.

Petitioner disputes the calculation of her household budget in determining her monthly FAP benefit amount, specifically the calculation of the unearned income that she receives from child support payments. MDHHS determined that Petitioner receives \$ [REDACTED] in monthly unearned income from child support payments. Department policy requires that child support payments Petitioner received in the past three calendar months be averaged unless changes are expected. BEM 505 (November 2021), p. 4. If there are known changes that will affect the amount of the payments in the future, MDHHS will not use the previous three months. BEM 505, p. 4. If the past three months' child support is not a good indicator of future payments, MDHHS will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 5. In this case, Petitioner reported on the [REDACTED], 2022 application that she receives \$ [REDACTED] per month in child support. No

explanation was given for Petitioner failing to report child support income in the Semi-Annual Contact Report that she submitted. Petitioner testified that she only receives consistent child support for one of her minor children. Petitioner receives inconsistent child support payments for her other two minor children. MDHHS testified that in calculating Petitioner's unearned income from child support they averaged the amounts that Petitioner received in January, February, and March (see Exhibit D, pp. 1-6). However, in averaging the amount that Petitioner receives for each child during this period, then totaling those amounts and averaging to determine Petitioner's average monthly amount from child support, the total is much lower than the amount that MDHHS relied upon. MDHHS did not provide an explanation as to why they calculated \$[REDACTED] in monthly unearned income. Therefore, MDHHS failed to act in accordance with policy in calculating Petitioner's unearned income.

Family Independence Program (FIP)

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Once Petitioner submitted a request for hearing, MDHHS processed her [REDACTED] 2022 FIP application. On March 18, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that her application for FIP was denied due to excess income. Petitioner now disputes the denial of her FIP application.

In order to receive FIP benefits, financial need must exist. Financial need is established, in part, when a client passes the qualifying deficit test and/or the issuance deficit test. BEM 518 (January 2020), BEM 515 (January 2022). At application, MDHHS performs the qualifying deficit test by subtracting budgetable income from the certified group's payment standard for the application month. The payment standard is the maximum benefit amount that can be received by the certified group. BEM 515, p 1; BEM 518, p 1. To perform the issuance deficit test, the Department subtracts budgetable income from the applicable payment standard for the benefit month. BEM 518, p 1. Financial need exists if there is at least a \$10 deficit after income is budgeted. If there is no deficit, the group is eligible for assistance. BEM 518, pp. 2-3. Thus, if Petitioner's group's income is less than the payment standard for the month being tested, the group will be eligible for FIP benefits. The FIP monthly assistance payment standard (based on EDG participation status and FIP certified group size) applicable to Petitioner's group size of two is \$597.00. RFT 210 (April 2017), pp. 1-2.

The undersigned requested that the Department representative submit the FIP budget documentation that MDHHS relied upon in determining Petitioner's FIP eligibility. These documents were admitted as MDHHS Exhibit E. However, MDHHS failed to submit the documents as instructed and Exhibit E is now removed from the formal record. No testimony was presented regarding MDHHS' calculation of Petitioner's household income to determine her eligibility for FIP. Therefore, MDHHS has failed to satisfy its

burden of showing that it acted in accordance with Department policy when it denied Petitioner's FIP application due to excess income.

Medical Assistance (MA)

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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Following Petitioner's hearing request, MDHHS took action on the MA applications that Petitioner submitted on [REDACTED] 2021 and [REDACTED] 2022. On March 18, 2022, MDHHS issued a Health Care Coverage Determination Notice informing Petitioner that [REDACTED], [REDACTED], [REDACTED], and herself are approved for MA benefits effective [REDACTED] 2021 (see Exhibit A, pp. 7-9). MDHHS testified that [REDACTED]' MA case was already active. MDHHS testified that Petitioner must now enroll in a MA program. Since there is no negative action or coverage determination to review, Petitioner's hearing request is **DISMISSED** for lack of jurisdiction pursuant to BAM 600 (March 2021), p. 5.

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 MDHHS did not act in accordance with Department policy when it determined Petitioner's monthly FAP amount and failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's FIP application.

DECISION AND ORDER

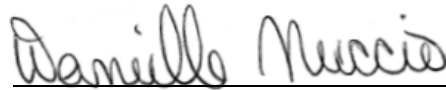
Accordingly, MDHHS' decision is **REVERSED**.

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. Recalculate the FAP budget for April 30, 2022 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Issue any supplements for FAP benefits that Petitioner was eligible to receive but did not;
3. Reprocess Petitioner's [REDACTED] 2022 FIP application;

4. Issue any supplements for FIP benefits that Petitioner was eligible to receive but did not;
5. Notify Petitioner of its decision in writing.

Petitioner's hearing request regarding her MA application is **DISMISSED**.



DN/mp

Danielle Nuccio
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

