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GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: April 28, 2022  
MOAHR Docket No.: 22-001425  
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 25, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Ronerro Hughes, Eligibility Specialist. The Office of Child Support (OCS) was represented by Lynn Crittendon, Lead Worker.

It is noted that although Exhibit B and Exhibit C were 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. Although Exhibit 1 was discussed and admitted as evidence during the hearing, Petitioner failed to timely send a valid file. Thus, Exhibit B, Exhibit C, and Exhibit 1 are excluded from the formal record and only Exhibit A, which was properly filed and admitted, remains.

### **ISSUE**

Did MDHHS properly process Petitioner's application for Child Development and Care (CDC), Food Assistance Program (FAP) and State Emergency Relief (SER) 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 ██████████ 2022, Petitioner applied for FAP, CDC, SER, and cash assistance. Petitioner reported that:
  - a. Petitioner's group consisted of herself and five minor children.

- b. Petitioner needed childcare so that she can participate in employment and activity required by MDHHS Child Protective Services (CPS).
- c. Petitioner is employed at McDonald's (Employer) 20 hours per week, earns \$[REDACTED] per hour, and is paid bi-weekly.
- d. DTE Energy placed a hold on Petitioner's heat account until March 18, 2022. DTE Energy did not place a hold on Petitioner's electricity account.

(Exhibit A, pp. 9-18).

- 2. On March 24, 2022, Petitioner submitted a hearing request disputing the delay in processing her FAP, CDC, and SER applications (Exhibit A, pp. 4-7).

### **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).

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Petitioner requested a hearing to dispute the delay in processing her CDC, FAP, and SER application submitted on [REDACTED] 2022. In this case, Petitioner applied for CDC, FAP, and SER on [REDACTED] 2022 for her five minor children and herself. After no response from MDHHS, Petitioner applied again on [REDACTED] 2022, also submitting a request for hearing regarding the February application on the same date. MDHHS did

not issue a Notice of Case Action regarding Petitioner's case until March 28, 2022, in which it denied her application for all programs.

The standard of promptness (SOP) begins the date MDHHS receives an application/filing form, with minimum required information. The regular FAP due date (SOP) is 29 calendar days after the application date. BAM 115 (July 2021), pp. 16-17. Here, Petitioner's application submitted on [REDACTED] 2022 was not processed until March 24, 2022, exceeding the SOP. MDHHS could not testify as to the reason for the delay in processing Petitioner's application. Therefore, MDHHS has failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's [REDACTED] 2022 application timely.

Once MDHHS finally processed Petitioner's application, they denied her FAP and SER application for non-compliance with OCS. However, MDHHS conceded that the application should still have been processed, and an eligibility determination made, as to whether the five minor children are eligible for benefits. MDHHS could not provide an explanation as to why the children would not be eligible, even if Petitioner was a disqualified group member. Therefore, MDHHS has failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's [REDACTED] 2022 application.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's [REDACTED] 2022 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. Reregister and reprocess Petitioner's [REDACTED] 2022 application for CDC, FAP, and SER;
2. If eligible, issue supplements for any benefits eligible for, but not issued, as of [REDACTED] 2022;

