



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: January 27, 2023
MOAHR Docket No.: 22-005992
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 January 19, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. A representative from the Department of Health and Human Services (Department) did not appear for the hearing and it was held in the absence of the Department.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case and process her application for Child Development and Care (CDC) 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. Petitioner was an ongoing recipient of FAP benefits. In connection with a redetermination, Petitioner's eligibility for FAP benefits was reviewed.
2. On or around November 14, 2022, Petitioner's daughter in law, who lives in Petitioner's household submitted an application requesting CDC benefits.
3. The Department closed Petitioner's FAP case effective December 1, 2022, because her household income exceeded the limit.
4. On or around December 21, 2022, Petitioner requested a hearing, disputing the closure of her FAP case and the Department's failure to process the CDC 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).

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.

CDC

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.

In this case, the Department was not present for the hearing and thus, did not present any evidence in support of the closure of Petitioner's FAP case or the failure to process the CDC application. At the hearing, the undersigned read the Hearing Summary prepared by the Department in response to Petitioner's request for hearing into the hearing record. According to the Hearing Summary, the Department sent Petitioner a Notice of Case Action advising her that her FAP case would be closing because her income exceeded the limit. The Department's Hearing Summary indicates that Petitioner did not apply for CDC benefits.

In order to be eligible for FAP benefits, FAP groups must have income below the applicable gross and/or net income limits based on their group size. BEM 213 (October 2021); BEM 212 (January 2022); BEM 550 (January 2022); RFT 250 (October 2021).

Petitioner disputed the Department's determination that her household had excess income and argued that her check stubs were not evaluated correctly during the processing of the redetermination. The Department was not present for the hearing, and thus, no evidence was presented in support of the Department's finding that Petitioner's household had income in excess of the income limit based on her group size. Because the Department did not present any evidence of Petitioner's income, the applicable deductions, or the income limit, the Department failed to satisfy its burden of showing

that it acted in accordance with Department policy when it closed Petitioner's FAP case effective December 1, 2022.

Additionally, when the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The date of application is the date the local office receives the required minimum information on an application or the filing form. Once an application is registered, the Department must certify eligibility results for each program requested within the applicable standard of promptness (SOP). The SOP begins the date the department receives an application/filing form, with minimum required information. After processing an initial application, the Department is to notify clients of the approval or denial by generating the appropriate notice of case action or eligibility notice. See BAM 110; BAM 115; BAM 220.

With respect to the CDC program, Petitioner testified that she lives in household with her daughter-in-law and grandchildren. Petitioner testified that on or around [REDACTED], 2022, an application for CDC benefits was submitted. Petitioner asserted that she spoke with a worker from the Department who informed her that the application had been lost. Petitioner testified that she was informed that the application was subsequently found and was in pending status. Petitioner testified that as of the hearing date, she had not received an eligibility decision regarding the application.

As referenced above, because the Department was not present for the hearing, no evidence was presented concerning the processing of the CDC application. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in processing Petitioner's CDC application.

DECISION AND ORDER

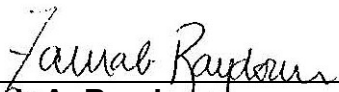
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's FAP case and recalculate Petitioner's FAP budget from December 1, 2022, ongoing;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not, if any, from December 1, 2022, ongoing, in accordance with Department policy;
3. Register and process Petitioner's [REDACTED] 2022, CDC application, to determine her household's eligibility for CDC benefits from the application date, ongoing;

4. Supplement Petitioner and/or her provider for any CDC benefits that she was eligible to receive, if any, but did not from the application date, ongoing; and
5. Notify Petitioner in writing of its decisions

ZB/ml



Zainab A. Baydoun
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 Electronic Mail :

DHHS
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
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Interested Parties
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D Sweeney
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Via First Class Mail :

Petitioner
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