



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: March 17, 2023
MOAHR Docket No.: 23-000612
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 March 8, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Assistance Payments Worker.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA), Child Development and Care (CDC), and Food Assistance Program (FAP) 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 MA, CDC, and FAP benefits. In connection with a redetermination, Petitioner's eligibility to receive assistance was reviewed.
2. On January 3, 2023, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of the following: childcare expenses for one or both children equaling amount reported, home rent, [REDACTED] Bank Account, self-employment income from October 2022, November 2022, and December 2022, and medical expense verification. Petitioner was also advised of the acceptable verification sources she was to submit, which included: day care provider statement, rent receipt showing amount, address, landlord, landlord statement, current lease, DHS-3688 shelter verification form, medical bill or receipt, health insurance premium notice, provider statement of expense, bank statement, DHS

20-verification of assets, recent business receipts to date, recent accounting or other business records to date, and/or recent income tax return. The due date for the verifications was [REDACTED] 2023. (Exhibit A, pp. 18-20)

3. Petitioner submitted a typed ledger as verification of her income which alleged that during the months of [REDACTED] 2022, [REDACTED] 2022, [REDACTED] 2022, and [REDACTED] 2022, she was paid [REDACTED] monthly and in [REDACTED] 2022, she was paid [REDACTED] monthly. (Exhibit A, p.24)
4. Petitioner asserted that she also submitted gas receipts and bank statements.
5. During the redetermination and interview process, Petitioner reported that she pays her daughter [REDACTED] a month to watch her two youngest children and Petitioner submitted a letter from her daughter as verification. However, Petitioner's daughter was also receiving [REDACTED] a month from the Department as Petitioner's CDC provider. Petitioner also reported that she has paid the father of her children Glenn Howard, monthly rent for the last [REDACTED] years in the amount of [REDACTED]. However, the Department discovered that Petitioner is the owner of the home that she pays rent for and there was no mortgage on the property, only property taxes. Based on the information received during the redetermination process, the Department determined that Petitioner's income and expenses were questionable and required further verification. (Exhibit A, pp.23-26,33)
6. In connection with a Front-End Eligibility (FEE) Investigation, on January 18, 2023, the Department sent Petitioner a VCL instructing her to submit proof of her self-employment income in the form of recent business receipts to date, recent accounting or other business records to date, and/or recent income tax return by January 30, 2023. Petitioner was also instructed to submit proof of all earned or unearned income, employment, unemployment, social security benefits, pension, etc. for the last 30 days as well as proof of self-employment/expense records over the last year. The VCL informs Petitioner that examples of proof include copies of check stubs, self-employment records or a statement from her source of income. (Exhibit A, pp. 21-26)
7. On or around January 18, 2023, the Department sent Petitioner a Notice of Case Action, advising her that effective February 12, 2023, her CDC case would be closed because she failed to submit requested verifications.
8. Petitioner's FAP case was closed effective February 1, 2023, the end of the certification benefit period. The FAP Notice reasons indicate that Petitioner's net income exceeded the income limit and she failed to return requested verifications. (Exhibit A, p.15)
9. Although the Department conceded that a Notice of Case Action was not issued to Petitioner, one was not required as the case closure was during a redetermination process. See BAM 210.

10. On or around [REDACTED] 2023, Petitioner requested a hearing disputing the Department's actions with respect to the closure of her MA, CDC, and FAP cases. (Exhibit A, pp. 3-4)

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).

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.

BAM 600, pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp. 4-6.

In this case, Petitioner requested a hearing on [REDACTED] 2023, disputing the closure of her MA case. While Petitioner testified that she received written notice advising her of a case closure, Petitioner failed to submit any written eligibility notice or similar documentation for review. The Department representative testified that upon review of Petitioner's case in Bridges, no health care coverage determination notice or other eligibility notice was issued to Petitioner advising of a case closure. The Department representative presented eligibility summaries showing that Petitioner and her minor children have continued to receive ongoing MA coverage since [REDACTED] 2022. The Department representative testified that due to policies implemented in response to the COVID-19 pandemic, the Department is not authorized to close any MA cases, including Petitioner's. Petitioner confirmed that she has not been told that she does not have active coverage at the doctor, and confirmed that on [REDACTED] 2023, she went to her doctor and was not advised of any billing issues or lack of MA coverage. Petitioner did not present any evidence that her MA case was closed or that the Department had taken any negative action on her MA case in the 90 days prior to her request for hearing. As such, the evidence showed that there was no negative action taken by the Department with respect to Petitioner's eligibility for MA program benefits in the 90 days

prior to her hearing request. Because no negative action was taken on Petitioner's MA case and Petitioner has not presented a hearable issue, Petitioner's hearing request with respect to MA is **DISMISSED**.

FAP/CDC

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 Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (October 2022), p. 1. Additional verifications may be required at redetermination or renewal. For FAP cases, verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. The Department will issue a DHS-3503, Verification Checklist after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, pp. 17-18. FAP benefits stop at the end of the benefit period unless a redetermination is completed, verifications received, and a new benefit period is certified. BAM 210, pp. 2-4. The Department will automatically close the FAP case without sending a Notice of Case Action. BAM 210, p.10-14. For CDC cases, the Department will send timely notice of the negative action or case closure if the time limit to submit verifications is not met.

Individuals who run their own businesses are self-employed. This includes providing direct services. BEM 502 (October 2019), pp.1-3. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. BEM 502, pp. 3-5. Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. To verify self-employment expenses, a DHS-431 Self-Employment Income and Expense Statement, with receipts is required. BEM 502, pp. 7-9. As a condition of receiving CDC benefits, a valid need must exist. BEM 702 (October 2022), p.1-5. CDC may be approved for

parents who are self-employed. To verify need based on self-employment, the Department is to use the DHS-431, Self-Employment Income and Expense Statement. BEM 702, pp. 11-12.

Department policy provides that the Department will request verification of self-employment income through an income tax return as a primary source of verification provided: the client hasn't started or ended self-employment, or received an increase/decrease in income, etc.; the tax return is still representative of future income; and the client filed a tax return. The secondary verification source for self-employment earnings is the DHS-431 Self-Employment Statement with all income receipts to support claimed income, and third the Self-Employment Statement without receipts. BEM 502 (October 2019), p. 7.

In this case, the Department asserted that in connection with a redetermination, Petitioner's eligibility for FAP and CDC benefits was reviewed. The Department representative testified that because Petitioner failed to submit sufficient and acceptable verification of her income from self-employment, her FAP case closed at the end of the certification period effective [REDACTED] 2023, and her CDC case closed effective [REDACTED] 2023. While the FAP Notice reasons also indicate that Petitioner's income exceeded the limit, the Department representative testified that the case closure was due to a failure to submit verification of income. The Department representative testified that in response to the VCL, Petitioner submitted the typed ledger showing her monthly income from [REDACTED] 2022 through [REDACTED] 2022. (Exhibit A, p. 24). The Department asserted that the ledger was not an acceptable verification source for self-employment income and Petitioner failed to submit the requested verification of self-employment income outlined in the VCL and required by policy and referenced above. The Department also asserted that without more detailed information regarding her self-employment earnings, the Department could not verify Petitioner's need for CDC benefits based on employment.

Petitioner disputed that she failed to submit verification of her self-employment income. Petitioner testified that she did not file a tax return and cannot submit something that she does not have. Petitioner testified that her caseworker spoke with the individual who she is paid by and verified her monthly income. Petitioner asserted that she also submitted gas receipts and bank statements. Petitioner testified that she submitted a letter from her daughter, who is her childcare provider showing that Petitioner pays her [REDACTED] monthly that covers the extra costs of childcare including food for the children, activities, and gas money to drive the children. The Department questioned the expenses, as Petitioner is approved for 90 hours of childcare biweekly and her provider is paid [REDACTED] monthly from the CDC program, in addition to the extra [REDACTED] provided by Petitioner. The Department asserted that the expenses submitted by Petitioner were in excess of her reported self-employment income and as a result, the FEE Investigation was initiated.

Petitioner testified that she works from [REDACTED] AM to [REDACTED] PM, [REDACTED] days per week. She testified that her job is to drive around and look for properties for sale. She testified that


if she finds properties for people to buy, she is paid [REDACTED] a month through her own [REDACTED] [REDACTED] or the [REDACTED] of a family member, as she asserted she does not have [REDACTED]. However, none of this information was included on the ledger submitted by Petitioner. While Petitioner is not required to submit a tax return if she does not file taxes, Petitioner could have submitted monthly DHS-431 Self-Employment Income and Expense Statements, which included the income receipts from her business, as well as other required information such as her work schedule, hours worked per month, the date in which she is paid and the manner in which she is paid. The ledger, gas receipts, bank statement and daycare provider statement are not sufficient or acceptable verification of self-employment per Department policy. Because Petitioner failed to submit the requested acceptable verification of her self-employment income, her need for CDC and income eligibility for both FAP and CDC could not be determined.

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 closed Petitioner's FAP and CDC cases.

DECISION AND ORDER

Accordingly, the hearing request with respect to MA is **DISMISSED** and the Department's FAP and CDC decisions are **AFFIRMED**.

ZB/ml



Zairab 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

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

BSC 4
M Holden
D Sweeney
L Brewer-Walraven
MOAHR

Via First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]