



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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Date Mailed: April 5, 2023
MOAHR Docket No.: 23-001134
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on March 29, 2023 via teleconference. Petitioner appeared and represented herself with the assistance of a translator. Candace Benns, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) benefits?
2. Did MDHHS properly deny Petitioner's application for Medicaid (MA) and Medicare Savings Program (MSP) 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, MA and MSP benefits.
2. On November 23, 2022, MDHHS sent Petitioner Notificación de la Acción del Caso (Notice of Case Action) indicating that Petitioner's FAP application was denied, effective October 24, 2022 ongoing because she failed to complete the interview requirement (Exhibit A, pp. 6-7).

3. On November 23, 2022, MDHHS sent Petitioner Aviso de Determinación de la Cobertura de Atención Médica (Health Care Coverage Determination) indicating that her application for MA and MSP was denied (Exhibit A, pp. 11-12).
4. On December 27, 2022, Petitioner filed a Request for Hearing to challenge the denial of her applications for FAP and MA.

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)

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS denied Petitioner's FAP application for failing to complete the interview requirement.

MDHHS is required to conduct an interview to explain the program requirements and to gather information necessary for determining the applicant's eligibility. BAM 115 (October 2022), pp. 17-18. MDHHS must conduct a telephone interview prior to approving FAP benefits. BAM 115, p. 20. The interview must be held by the 20th day after the application date in order to allow the client at least ten days to provide requested verifications by the 30th day. BAM 115, p. 24. If a client misses an interview appointment, MDHHS must send a Notice of Missed Interview advising the client that it is their responsibility to request another interview date. BAM 115, p. 24. MDHHS only sends a Notice of Missed Interview after the first missed interview. *Id.* MDHHS may not deny the application for failure to complete the scheduled interview until the 30th day after the application, even if the client has returned all verifications. BAM 115, pp. 18-19.

At the hearing, Petitioner credibly testified that she was unaware that she had a scheduled interview with MDHHS. When asked whether it sent Petitioner an appointment notice or otherwise informed her of the scheduled interview, the representative from MDHHS was unsure. No evidence was admitted to show that MDHHS informed Petitioner of the scheduled interview or that it sent her a notice of missed appointment after the fact. MDHHS had the responsibility to notify Petitioner of the requirements to complete her FAP application and it failed to do so here.

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 denied Petitioner's FAP application.

Medicaid (MA) and Medicare Savings Program (MSP)

MA 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. MA is also known as medical assistance. BEM 105 (January 2021), p. 1.

Medicare is a federal program administered by the Social Security Administration (SSA). BAM 810 (January 2020), p. 1. MSP is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp 1-2; BAM 810, p. 1.

In this case, MDHHS denied Petitioner's application for MA and MSP due to excess income. Petitioner disputed the amounts that MDHHS used to calculate her income.

MDHHS must consider a client's available earned and unearned income when determining eligibility for MA and MSP. The income limits depend on the specific MA program. MA is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under an 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, Flint Water Group and Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the MAGI methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; (vi) are residents of the State of Michigan; and (vii) meet citizenship requirements. BEM 137 (June 2020), p. 1.

Here, MDHHS did not introduce Petitioner's application for MA and MSP at the hearing and did not specify which MA categories it considered when determining her eligibility. The record shows that MDHHS budgeted \$██████████ for her annual income and \$██████████ for her husband's income, but it could not sufficiently explain what these amounts were based on or how it calculated these amounts (Exhibit A, p. 12). Petitioner testified that the amounts were inaccurate, stating that she receives Retirement, Survivors, Disability Insurance (RSDI) in the amount of \$710.00 per month and that her husband no longer has income because he passed away. There was no evidence that MDHHS attempted to verify Petitioner's income prior to denying her application. Given

the uncertainty regarding Petitioner's income, MDHHS failed to show that it properly assessed Petitioner's eligibility for MA and MSP.

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 denied Petitioner's application for MA and MSP.

DECISION AND ORDER

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

MDHHS 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 Petitioner's [REDACTED], 2022 application for FAP, MA and MSP;
2. Redetermine Petitioner's eligibility for FAP, MA and MSP from October 24, 2022 ongoing, requesting additional verification from Petitioner if needed;
3. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not from October 24, 2022 ongoing;
4. Provide MA and MSP coverage for each month that she was eligible, from October 24, 2022 ongoing.
5. Notify Petitioner of its decision(s) in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
**MDHHS-Wayne-41-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
M. Schaefer
EQADHearings

Via-First Class Mail :

Petitioner

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