



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-005196
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on October 9, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, supervisor.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief for an electric bill.

The second issue is whether MDHHS properly denied Petitioner's application for Child Development and Care (CDC)

The third issue is whether MDHHS properly calculated Petitioner's child support income in determining Food Assistance Program (FAP) benefits beginning July 2023.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In February and March 2023, Petitioner received \$ [REDACTED] in monthly FAP benefits.
2. On March 29, 2023, MDHHS mailed Petitioner notice of a reduction in FAP benefits to \$661 beginning April 2023.

3. From April through June 2023, Petitioner received \$661 in FAP benefits.
4. On May 31, 2023, MDHHS mailed Petitioner notice of a reduction in FAP benefits beginning July 2023 to \$399 per month due to an increase in child support income.
5. On [REDACTED] 2023, Petitioner applied for SER seeking assistance with separate shut-off threats for natural gas and electricity.
6. On an unspecified date, Petitioner submitted to MDHHS an electricity bill stating that Petitioner's service would be shut-off as of July 26, 2023, unless \$229.56 was paid.
7. On August 7, 2023, MDHHS denied Petitioner's application for SER- Electricity due to Petitioner not having a shut-off notice.
8. On [REDACTED] 2023, Petitioner applied for CDC benefits. MDHHS mailed Petitioner notice of a telephone interview on August 14, 2023.
9. On August 14, 2023, MDHHS called Petitioner for an interview at the scheduled time and left a voicemail after Petitioner did not answer.
10. On August 23, 2023, Petitioner requested a hearing to dispute child support budgeted in FAP benefits since February 2023 and the denial of SER- electricity. Petitioner additionally wanted CDC payments to be made to her provider.
11. On August 23, 2023, MDHHS called Petitioner for a CDC interview and left a voicemail after Petitioner did not answer.
12. On September 1, 2023, MDHHS denied Petitioner's CDC application due to Petitioner's failure to complete an interview.
13. On October 9, 2023, Petitioner verbally withdrew the dispute of FAP eligibility for February and March 2023.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner requested a hearing, in part, to dispute a denial of SER for an electricity bill shut-off. Petitioner applied for SER on [REDACTED] 2023, seeking payment for an electricity and natural gas bill; Petitioner had a different provider for each. MDHHS paid Petitioner's natural gas bill. A State Emergency Relief Decision Notice dated August 7,

2023, stated that Petitioner failed to meet program requirements for electricity to be paid. Exhibit A, pp. 6-7. MDHHS testimony specified that Petitioner failed to have a shut-off threat for electricity.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (April 2020) p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. *Id.*, p. 3. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. *Id.*, pp. 3-4. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id.*, p. 4.

MDHHS contended that Petitioner's electric bill was not in shut-off status. To substantiate its claim, MDHHS presented documents obtained from a data exchange with Petitioner's electricity provider. Exhibit A, pp. 17-21. However, MDHHS also acknowledged it received a bill from Petitioner's electricity provider stating that Petitioner needed to pay \$229.56 by July 26, 2023, to avoid a shut-off.¹

Petitioner's actual DTE bill is found to be more credible evidence of a shut-off threat than MDHHS's data exchange. Thus, Petitioner established having a shut-off threat to electricity. Because of the shut-off threat, MDHHS improperly denied Petitioner's SER application for electricity.

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also disputed FAP eligibility "for 3-4 months" back to "the last reduction in or around February 2023". Exhibit A, pp. 3-4. During the hearing, Petitioner acknowledged she received \$1,025 in FAP benefits for February and March 2023 and she did not need a hearing to address those months. For February and March 2023, Petitioner's hearing request will be considered withdrawn.

Concerning April through June 2023, Petitioner disputed receiving only \$661 in monthly FAP benefits. A Notice of Case Action dated March 29, 2023, was sent to inform Petitioner of the reduction in FAP benefits. However, Petitioner did not request a hearing until August 23, 2023. A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. Petitioner requested a hearing 147 days after MDHHS mailed written notice affecting April through June 2023. Thus, there is no administrative

¹ Petitioner's total balance was \$478.72.

jurisdiction for Petitioner's dispute concerning FAP eligibility from April through June 2023 due to an untimely request. Concerning April through June 2023, Petitioner's hearing request will be dismissed.

Concerning July and August 2023, MDHHS issued Petitioner \$399 in FAP benefits. A Notice of Case Action dated May 31, 2023, stated Petitioner's FAP eligibility was reduced due to a change in unearned income. Exhibit 1, pp. 1-8. MDHHS clarified that the reduction in FAP was caused by an increase in child support income.

To determine if FAP benefits were calculated correctly, considerations of group composition, income, and expenses is necessary. In the present case, Petitioner limited her dispute over FAP benefits to the amount of child support income factored by MDHHS.

For child support income, MDHHS is to use the average of child support payments received in the past three calendar months unless changes are expected. BEM 505 (October 2022) p. 4. MDHHS is to include the current month if all payments expected for the month have been received. *Id.* Do not include amounts that are unusual and not expected to continue. *Id.*

The evidence did not establish how much in child support income MDHHS budgeted for July and August 2023. However, MDHHS acknowledged it factored an unspecified and large child support income payment from March 2023 which was not representative of Petitioner's projected income. The evidence did establish that Petitioner received \$370.25 in child support income for July, a much lower income than MDHHS likely factored. Given the evidence, MDHHS will be ordered to reprocess Petitioner's FAP eligibility for July and August 2023 using Petitioner's actual child support income.

The 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 CDC program is implemented by 45 CFR 98.1-99.33. MDHHS administers the CDC 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. CDC policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner lastly requested a hearing to dispute CDC. Exhibit A, pp. 3-4. Petitioner's hearing request suggested she had CDC eligibility but needed MDHHS to issue payments to her provider. Petitioner further testified she was told payments would be issued if she submitted documents to an MDHHS supervisor.² However, a Notice of Case Action dated September 1, 2023, stated that Petitioner was denied CDC

² Petitioner suggested her CDC provider was not registered to receive payments. If true, no payments would be made until the CDC provider was cleared and registered to accept payments.

beginning July 30, 2023, due to a failure to participate in an interview.³ Exhibit A, pp. 41-44.

The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115 p. 7. For CDC, MDHHS is to not deny the application if the client has not participated in the scheduled initial interview until the 10th day after the scheduled interview, in order to provide time for the client to reschedule. If the client reschedules the interview and again fails to participate, CDC may be denied. *Id.* p. 6 and 18.

On August 7, 2023, MDHHS mailed Petitioner notice of a telephone CDC appointment scheduled for August 14, 2023. Exhibit A, p. 27. Petitioner's specialist document that Petitioner was called at the scheduled date and time and a voicemail was left after Petitioner did not answer.⁴ Exhibit A, pp. 30-40. MDHHS also documented it called Petitioner on August 23, 2023, the date of Petitioner's hearing request, but again Petitioner did not answer. There was no evidence that Petitioner attempted to call MDHHS to reschedule the interview before CDC was denied on September 1, 2023.

Petitioner testified she may not have received written notice of the appointment because of difficulties with mail delivery. Petitioner additionally testified she did not have access to the MDHHS app to see if any notices were sent.

Petitioner did not fault MDHHS for its actions Petitioner also did not support her verbal claim of mail difficulties with any documentary evidence. MDHHS supported its testimony with documentation of its efforts to contact Petitioner on August 14 and 23, 2023. Exhibit A, pp. 30-40.

The evidence established that MDHHS properly sent Petitioner notice of an interview for CDC, attempted to call Petitioner twice, and sent proper notice of denial after Petitioner failed to call for an interview. Thus, MDHHS properly denied Petitioner's CDC application.

³ Arguably, Petitioner is not entitled to a hearing on CDC because a hearing was requested before a negative action (the denial) took place. Nevertheless, a substantive analysis of the denial will be undertaken.

⁴ MDHHS logged Petitioner as a no-show for the appointment on its database. Exhibit A, pp. 28-29.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning FAP benefits from March and April 2023. Additionally, Petitioner failed to timely request a hearing to dispute FAP eligibility from April through June 2023. Concerning Petitioner's FAP eligibility from February through June 2023, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's CDC application dated August 7, 2023, due to Petitioner's failure to be interviewed. Concerning CDC, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility for July and August 2023 and improperly denied SER-Electricity. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's SER-Electricity application dated [REDACTED] 2023, and process it subject to the finding that Petitioner verified a shut-off threat to electricity services with a shut-off amount of \$229.56.
- (2) Reprocess Petitioner's FAP eligibility from July and August 2023 subject to the finding that MDHHS improperly calculated Petitioner's household's child support income; and
- (3) Issue supplements and notices, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki
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

Yaita Turner
Oakland County Pontiac-Woodward
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51111 Woodward Ave 5th Floor
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**MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties

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MOAHR

Via-First Class Mail :

Petitioner

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