



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 27, 2023
MOAHR Docket No.: 23-005366
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 28, 2023, via teleconference. Petitioner appeared and represented herself. Daniel Vendzuh, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly deny Petitioner's application for Direct Support Services (DSS)?

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 [REDACTED] [REDACTED] 2023, Petitioner applied for DSS for assistance with a vehicle repair.
2. On July 6, 2023, Petitioner submitted an estimate for vehicle repair to MDHHS (Exhibit A, p. 14).
3. On July 20, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) for vehicle repair (Exhibit A, p. 12). Among other verifications required, the VCL indicated that Petitioner needed to submit a signed estimate by a licensed mechanic indicating what repairs were needed and that the repairs would make the vehicle "safe and roadworthy" (Exhibit A, p. 12). The verifications were due on July 30, 2023 (Exhibit A, p. 12).

4. On August 15, 2023, MDHHS sent Petitioner an Application Notice indicating that the request for DSS was denied, effective January 4, 2023, due to “VCL fail” or failure to provide the Department with the information needed to determine eligibility (Exhibit A, pp. 5-6).
5. On August 15, 2023, MDHHS sent Petitioner a Quick Note stating that the request for DSS vehicle repair was denied due to verification failure (Exhibit A, p. 9). It indicated that Petitioner needed to provide (i) a written statement attesting to the ownership and condition of the 1986 AMC Eagle and 2019 Taotao Motorcycle, and (ii) a signed estimate from a licensed mechanic stating that the repairs will make the vehicle safe and roadworthy (Exhibit A, p. 9).
6. On August 21, 2023, Petitioner filed a Request for Hearing to dispute the denial of her request for DSS (Exhibit A, p. 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).

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers DSS pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603. MDHHS and the Partnership. Accountability. Training. Hope. (PATH) program provide DSS to help families become self-sufficient. BEM 232 (October 2022), p. 1.

In this case, MDHHS denied Petitioner’s request for DSS because it alleged that she failed to return the requested verifications. Petitioner disputed MDHHS’ determination and argued that she attempted to comply with MDHHS’ requests to the best of her ability.

DSS includes Employment Support Services (ESS) funding, which provides goods or services needed to access employment, such as vehicle purchases, car insurance and car repairs. *Id.* The decision to allocate DSS is within the discretion of MDHHS, or the PATH program based on local office funding, and thus, there is no entitlement for DSS. *Id.* MDHHS may authorize DSS for vehicle repairs when the vehicle is the participant’s primary means of transportation for employment-related activities. *Id.*, p. 15. Prior to approving DSS for vehicle repair, MDHHS is required to ensure that all the following conditions are met: (i) an eligible group member owns the vehicle; (ii) the client requesting the service has a valid driver’s license; and (iii) the repair is expected to make the vehicle safe and roadworthy. *Id.* An estimate of the vehicle repair is required and must be placed in the electronic case file. *Id.*, p. 16.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgment. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification, or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* Before determining eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statements and information from another source. *Id.*, p. 9.

MDHHS alleged that it followed policy when it denied Petitioner's request for DSS because Petitioner failed to provide the requested verifications. The record shows that Petitioner provided a written estimate for vehicle repair to MDHHS on July 6, 2023. Then on July 20, 2023, MDHHS sent Petitioner a VCL indicating that Petitioner needed to submit a signed estimate by a licensed mechanic indicating what repairs were needed and that the repairs would make the vehicle "safe and roadworthy" (Exhibit A, p. 12). The VCL also requested a written statement attesting to the condition of two other vehicles (Exhibit A, p. 12). The verifications were due on July 30, 2023. MDHHS testified at the hearing that Petitioner returned the statements required for the two other vehicles, and therefore, that issue was resolved.

At the hearing, Petitioner credibly testified that she attempted to comply with MDHHS' request for additional information regarding the vehicle repair, but the mechanic refused. She testified that the mechanic would not provide additional documentation. She further stated that she went to the local MDHHS office to explain the situation and gave the MDHHS representative a phone number to call the mechanic. MDHHS testified that it attempted to reach the mechanic by phone; however, it is possible that MDHHS was using the wrong number because it was calling the number on the estimate and not the number provided by Petitioner.

The record shows that Petitioner was attempting to comply with MDHHS' verification requests but was unable to because of a refusal from a third party. The record also shows that Petitioner needed and requested help from MDHHS. MDHHS attempted to assist Petitioner in obtaining the verification but was also unsuccessful. In the event that neither the client nor MDHHS can obtain a verification despite a reasonable effort, MDHHS must use the best available information. In this case, the best available information was the written estimate provided by the mechanic on the mechanic's letterhead. Because Petitioner did not indicate a refusal to provide the information and was making a reasonable attempt to comply with MDHHS requests, MDHHS should

have either continued to assist her in obtaining the required statement from the mechanic or relied on the best available information that it had.

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 request for DSS.

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. Redetermine Petitioner's eligibility for DSS based on the [REDACTED] [REDACTED] 2023, application, providing the appropriate assistance to Petitioner in obtaining required verifications.
2. If eligible, issue DSS payments to Petitioner and/or her service provider based on the [REDACTED] [REDACTED] 2023, application; and
3. Notify Petitioner of its decision in writing.



LJ/nr

Linda Jordan
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
Dan Vendzuh
Otsego County DHHS
931 S. Otsego Suite 1
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**MDHHS-Otsego-
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Interested Parties
Otsego County DHHS
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Via-First Class Mail :

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