



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 3, 2023
MOAHR Docket No.: 23-005475
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 5, 2023, from Lansing, Michigan. [REDACTED] [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Stephanie Wallingford, Family Independence Specialist (FIS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-24.

ISSUES

Did the Department properly determine Petitioner's eligibility for Family Independence Program (FIP), Food Assistance Program (FAP), and Child Development and Care (CDC)?

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 July [REDACTED] 2023, Petitioner submitted a Renew Benefits for FAP and CDC. The household members were Petitioner and four children, ages 13, 4, 2, and 0. (Exhibit A, pp. 7-10)
2. On September [REDACTED] 2023, Petitioner submitted a check stub from [REDACTED] [REDACTED] (Exhibit A, pp. 3 and 11)

3. On September █ 2023, a Verification Checklist was issued to Petitioner requesting verification of the balance of her Cash App account with a due date of September 11, 2023. (Exhibit A, pp. 3 and 16-18)
4. On September █ 2023, Petitioner submitted a hearing request contesting FIP and CDC closures and the amount of FAP benefits. (Exhibit A, pp. 4-5)
5. On September █ 2023, Petitioner submitted a written statement that she no longer has her cash app. The Department closed the cash app record. (Exhibit A, p. 3)
6. On September █ 2023, the Department verified Petitioner's income with a report from The Work Number. The last 30 days showed a pattern of irregular income. (Exhibit A, pp. 3 and 12-15)
7. On September █ 2023, the Department determined the Petitioner was eligible for FAP with a monthly benefit amount of \$█ CDC was sustained for two children but denied for the 13 year old due to her age, and FIP benefits were closed due to income in excess of program limits. (Exhibit A, pp. 3; FIS Testimony)
8. On September █ 2023, a Notice of Case action was issued stating CDC was denied for child SY, and that the FAP benefit amount would increase to \$█ for the household of 5 effective October 1, 2023. (Exhibit A, pp. 19-22)

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Financial need must exist to receive FIP benefits. Financial need exists when the certified group passes the Qualifying Deficit Test, Issuance Deficit Test, and the Child Support Income Test. BEM 518, July 1, 2023, p. 1.

At application, the Department's computer system, Bridges, performs the qualifying deficit test by subtracting budgeable income from the certified group's payment standard for the application month; see BEM 515. BEM 518, July 1, 2023, p. 1.

To perform the issuance deficit test, Bridges subtracts budgetable income from the certified group's payment standard for the benefit month. BEM 518, July 1, 2023, p. 1

To meet the child support income test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the certified group's payment standard. BEM 518, July 1, 2023, p. 1.

Upon certification of eligibility results, the Department's computer system (Bridges) automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, July 1, 2023, p. 2.

The payment standard is the maximum benefit amount that can be received by the certified group. Income is subtracted from the payment standard to determine the grant amount; see BEM 518. The grant amount is for shelter, heat, utilities, clothing, food and items for personal care. It is not to be used to purchase lottery tickets, alcohol or tobacco. It is also not to be used for gambling, illegal activities, massage parlors, spas, tattoo shops, bail-bond agencies, adult entertainment, cruise ships or other nonessential items. The Department is to determine the correct payment standard based on the program, certified group size, and living arrangement (SDA) or grantee status (FIP/RCA). FIP/RCA payment standards are found in RFT 210. BEM 515, January 1, 2022, p. 1.

The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. The Department uses the following methods: multiply weekly income by 4.3; multiply amounts received every two weeks by 2.15; add amounts received twice a month. This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505, October 1, 2022, p. 8.

For a group size of four, the FIP eligible grantee monthly assistance standard is \$597. RFT 210, April 1, 2017, p. 1.

In this case, the testimony of the FIS indicated a written notice of case action was issued to Petitioner on September █ 2023 indicating the FIP case would close. (FIS Testimony). Accordingly, it appears that the FIP determination was made before the Department completed obtaining verification of Petitioner's income. On September █ 2023, Petitioner submitted a check stub from █. (Exhibit A, pp. 3 and 11). On September █ 2023, the Department verified Petitioner's income with a report from The Work Number. The last 30 days showed a pattern of irregular income. (Exhibit A, pp. 3 and 12-15).

Further, it is noted that the FIP budget the Department submitted for the benefit month of October 2023 reflects that a payment standard of \$597.00 was utilized. (Exhibit A, p. 24). Per RFT 210, this corresponds with a group size of four. However, the July █ 2023, Renew Benefits Petitioner submitted showed that household members were Petitioner and four children, ages 13, 4, 2, and 0. (Exhibit A, pp. 7-10). Additionally, the FAP budget the Department submitted for the benefit month of October 2023 reflects a group size of

five. (Exhibit A, p. 23). It is not clear why the Department utilized a group size of four for the FIP determination.

Overall, the Department has not met their burden to provide sufficient evidence to show it acted in accordance with Department policy when it determined Petitioner's eligibility for FIP.

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.

Petitioner testified that she only received \$ [REDACTED] in FAP benefits for the month of September 2023. (Petitioner Testimony). The FIS confirmed that the Petitioner's FAP benefit decreased to \$ [REDACTED] for that month. (FIS Testimony).

Petitioner's hearing request was filed September 5, 2023. However, the Department did not provide any evidence addressing FAP benefits for the month of September 2023. Accordingly, the Department has not met their burden to provide sufficient evidence to review the FAP determination for the month of September 2023.

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 general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2023, pp. 1-4.

The Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time-period given has elapsed and the client has not made a reasonable effort to provide it. For FIP, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the Department may grant an extension. BAM 130, p. 7.

In this case, Petitioner did not contest the denial for the 13 year old child. Rather, Petitioner is seeking benefits for the newborn child. (Petitioner Testimony). The FIS acknowledged that CDC eligibility had not been determined for Petitioner's newborn child. The FIS indicated there was no application for CDC for this child and that the Department did not have his social security number. (FIS Testimony). Petitioner testified that she put in for CDC for this child and provided testimony regarding bringing his social security number to the Department office as she was not comfortable sending them a picture of either the child's social security card or of a paper with the number written on it. (Petitioner Testimony).

It is noted that the Renew Benefits submitted on July ■ 2023 was for FAP and CDC benefits and listed the newborn as a household member. (Exhibit A, pp. 7-10). Further, the Department did not provide any evidence of requesting verification of this child's social security number in accordance with the BAM 130 policy.

Overall, the Department has not met their burden to provide sufficient evidence to show it acted in accordance with Department policy when it determined Petitioner's eligibility for CDC.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FIP, FAP, and CDC.

DECISION AND ORDER

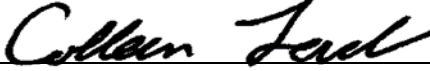
Accordingly, the Department's decisions are **REVERSED**.

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. Redetermine Petitioner's eligibility for FAP as of September 1, 2023 in accordance with Department Policy.
2. Redetermine Petitioner's eligibility for CDC, specifically for the newborn child, as of September 1, 2023 in accordance with Department Policy.

3. Redetermine Petitioner's eligibility for FIP as of September 1, 2023 in accordance with Department Policy.

CL/dm



Colleen Lack
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

