



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], MI [REDACTED]

Date Mailed: February 13, 2024
MOAHR Docket No.: 23-008691
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 January 25, 2024, via teleconference. Petitioner appeared and represented herself. Arnesia Woods, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS introduced documentary evidence at the hearing, which was admitted as MDHHS Exhibit A, pp. 1-63.

ISSUE

Did MDHHS properly process Petitioner's application for Food Assistance Program (FAP) benefits, Family Independence Program (FIP)/cash assistance and Medicaid (MA) 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 [REDACTED] [REDACTED] 2023, Petitioner applied for FAP, FIP/Cash Assistance, and MA (Exhibit A, p. 9). Petitioner reported a household-size of three, which included herself, [REDACTED] [REDACTED] (Son), and [REDACTED] [REDACTED] (Exhibit A, pp. 10-11). Respondent's Spouse, [REDACTED] [REDACTED] (Spouse), was not included in the household.
2. On [REDACTED] [REDACTED] 2023, Petitioner submitted an application for FAP, FIP/Cash Assistance and MA (Exhibit A, pp. 19-20). Respondent reported a change in

household income and stated that Spouse was no longer in the home, but his income was counted (Exhibit A, p. 23).

3. On October 24, 2023, MDHHS sent Petitioner a Verification Checklist (VCL), requesting proof of checking account information for Petitioner (Exhibit A, p. 61). The VCL indicated that proofs were due by November 3, 2023 (Exhibit A, p. 61).
4. On November 6, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was denied for FIP, effective October 16, 2023 ongoing, and her FAP case was closed for the month of September 2023 and from December 1, 2023 ongoing (Exhibit A, p. 34). FIP was denied due to excess income (Exhibit A, p. 35). Several reasons were provided for the FAP denial, including net income exceeding income limit (Exhibit A, p. 36). MDHHS budgeted \$5,101.00 for the household's earned income and \$1,692.00 for the household's unearned income (Exhibit A, p. 36).
5. On November 29, 2023, Petitioner filed a Request for A Hearing regarding FAP, FAP and MA (Exhibit A, p. 6).

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).

The Family Independence Program (FIP)/cash assistance 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. MDHHS 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.

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

Medicaid (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.

In this case, Petitioner applied for FAP, FIP and MA on [REDACTED] 2023. MDHHS denied Petitioner's application for FAP and FIP. Petitioner filed a Request for A Hearing to dispute MDHHS' determinations regarding her FAP, FIP and MA benefits. However, the case was characterized by both parties at the hearing as a dispute regarding FAP and FIP, and no information was presented regarding Petitioner's MA benefits. Because there was no information presented by either party regarding the status of Petitioner's MA benefits, the undersigned cannot determine whether MDHHS properly determined Petitioner's MA coverage. Thus, MDHHS has failed to satisfy its burden of showing that it properly determined Petitioner's MA coverage and must redetermine her eligibility based on the [REDACTED] 2023 application.

Regarding FAP and FIP, MDHHS is required to determine the applicant's group composition prior to making an eligibility determination. For FAP MDHHS considers (i) who lives together; (ii) the relationships of the people who live together; (iii) whether the people living together prepared food together; and (iv) whether the person resides in a special living situation which requires the consideration of other factors. BEM 212 (January 2022), p. 1. Concerning the first factor, MDHHS must determine mandatory and non-mandatory group members. *Id.* When spouses who are legally married live together, they are mandatory group members, and must be included in the same FAP group. *Id.* For FIP, group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. BEM 210 (July 2021), p. 1. Living together means sharing a home where family members usually sleep except for temporary absences. *Id.*, p. 3.

To determine Petitioner's eligibility for FAP and FIP benefits, MDHHS was required to determine Petitioner's group-size based on who was living in the household. MDHHS testified that Spouse was included in the household, and therefore, his income was included in the budget determination for FIP and FAP. However, Petitioner reported that Spouse was no longer living in the household because they were separated.

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 judgement. *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.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.*

If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.* Before determining program eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and another source. *Id.*, p. 9.

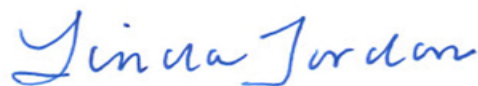
Here, MDHHS failed to present any evidence that it attempted to verify Petitioner's household composition by sending a VCL, contrary to Department policy. Because MDHHS failed to request verification of this information, the record shows that it did not allow Petitioner a reasonable opportunity to resolve the discrepancy between her reported household size and MDHHS' determination regarding her household size. If Spouse was not a household member, then his income information should not have been included in the determinations for program benefits. Additionally, no budgets were presented for FIP or FAP to explain how MDHHS determined the household income.

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 processed Petitioner's benefits application.

DECISION AND ORDER

Accordingly, MDHHS' decision **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 and reprocess Petitioner's [REDACTED] 2023 application for FAP, FIP and MA, requesting additional verifications, as necessary;
2. Provide Petitioner with any supplemental FAP and FIP benefits that she was eligible to receive, but did not, from September 28, 2023 ongoing;
3. Provide Petitioner with the most benefit MA coverage that she was eligible to receive, from September 28, 2023 ongoing; and
4. Notify Petitioner of its decisions 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
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Via-First Class Mail :

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