



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]
[REDACTED], MI [REDACTED]

Date Mailed: January 26, 2024
MOAHR Docket No.: 23-009018
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 17, 2024, via teleconference. Petitioner appeared and represented herself. Shyla Coleman, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did MDHHS properly determine Petitioner's eligibility for Child Development and Care (CDC) benefits?
2. Did MDHHS properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?
3. Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

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], 2023, Petitioner filed an Assistance Application for CDC, MA and FAP benefits (Exhibit A, p. 7). Petitioner reported that her household income changed from month-to-month (Exhibit A, p. 13).

2. On December 1, 2023, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, p. 16).
3. On December 5, 2023, Petitioner filed a Request for Hearing regarding her eligibility for CDC, MA and FAP benefits (Exhibit A, pp. 3-5).
4. On December 15, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for CDC benefits beginning December 3, 2023 (Exhibit A, p. 28). The Notice of Case Action further indicated that Petitioner was denied FAP benefits, effective January 1, 2024 ongoing (Exhibit A, p. 28). Petitioner's FAP case was denied for excess income (Exhibit A, p. 30).

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 Child Development and Care (CDC) Program

CDC 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. MDHHS 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.

Petitioner requested a hearing regarding her eligibility for CDC benefits. At the hearing, Petitioner credibly testified that her issue regarding CDC benefits had been resolved and that she no longer wished to proceed with the hearing on that issue. Petitioner requested to withdraw the Request for Hearing regarding CDC. MDHHS had no objection. The undersigned Administrative Law Judge (ALJ) granted Petitioner's request on the record. Pursuant to Petitioner's withdrawal, the matter pertaining to Petitioner's CDC benefits, is, hereby, **DISMISSED**.

The 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 application for FAP because it determined that she was over the income limit for the program. Petitioner disputed the calculation of her income.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable earned and unearned income. BEM 500 (July 2020), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2023), p. 1.

For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. MDHHS uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 6. For fluctuating or irregular income, MDHHS is required to use the past 60 or 90 days if the past 30 days is not a good indicator of future income and the fluctuations in income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. *Id.* The 60 or 90-day period can begin up to 60 or 90 days before the date the information was requested. *Id.*, p. 7. For irregular income, MDHHS determines a standard monthly amount by adding the amounts together and dividing by the number of months used. *Id.*, p. 9. Department policy further provides that MDHHS should seek input from clients whenever possible when prospecting income. *Id.* at 1.

MDHHS budgeted \$ [REDACTED] for Petitioner's income based on earned income that she received from [REDACTED] (Employer). MDHHS testified that the income was based on two paystubs it received from Petitioner, dated November 9, 2023 and October 27, 2023 (Exhibit A, pp. 23-24). The gross income from those paystubs was \$ [REDACTED] and \$ [REDACTED], respectively (Exhibit A, pp. 23-24). Averaging those amounts together and multiplying by 2.15 equals a standard monthly amount of \$ [REDACTED] (dropping the cents). See BEM 505, p. 8 (instructing MDHHS to multiply amounts received biweekly by 2.15).

MDHHS testified that Petitioner indicated that the paystubs were reflective of current and future income. At the hearing, Petitioner disputed this contention and testified that her income fluctuated from month-to-month. Petitioner testified that she was a bus driver for Employer, that she worked nine months per year and that her checks fluctuated from month-to-month based on the number of days that school was in session.

The record shows that Petitioner indicated that her income fluctuated on her application (Exhibit A, p. 13). When an eligibility factor is unclear or in dispute, MDHHS is required to request verification of that eligibility factor, pursuant to Department policy. BAM 130 (October 2023), p. 1. Based on Petitioner's testimony, her checks varied based on the number of days that school was in session. Accordingly, it is likely that 60 or 90 days of paystubs would more accurately represent Petitioner's current and prospective income. BEM 505, p. 6. No evidence was presented to show that MDHHS requested additional information regarding Petitioner's fluctuating 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 denied Petitioner's application for FAP.

Medicaid (MA)

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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner requested a hearing regarding her eligibility for MA coverage. At the hearing, MDHHS affirmed that Petitioner had open and active MA benefits. Petitioner credibly testified that her issue regarding MA had been resolved and that she no longer wished to proceed with the hearing on that issue. Petitioner requested to withdraw the Request for Hearing regarding MA. MDHHS had no objection. The undersigned Administrative Law Judge (ALJ) granted Petitioner's request on the record. Pursuant to Petitioner's withdrawal, the matter pertaining to Petitioner's MA benefits, is, hereby, **DISMISSED**.

DECISION AND ORDER

The matters regarding CDC and MA are **DISMISSED**.

MDHHS' decision regarding Petitioner's FAP benefits is **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. Reregister Petitioner's [REDACTED], 2023 application for FAP;
2. Redetermine Petitioner's eligibility for FAP benefits after requesting additional verification regarding fluctuating income, as necessary, from November 30, 2023 ongoing;
3. Issue supplemental payments for any FAP benefits that Petitioner was eligible to receive, but did not, from November 30, 2023, ongoing; and
4. Notify Petitioner of its decision in writing.

LJ/tm



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
Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180
**MDHHS-Wayne-18-
Hearings@michigan.gov**

Interested Parties
M. Holden
N. Denson-Sogbaka
B. Cabanaw
M. Schaefer
EQADHearings
L. Brewer-Walraven
BSC4

Via-First Class Mail :

██████████
████████████████████
████████████████████
██████████ MI ██████████