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GOVERNOR

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

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DIRECTOR

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Date Mailed: June 18, 2024
MOAHR Docket No.: 24-004935
Agency No.: ██████████
Petitioner: ██████████

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 May 30, 2024, via teleconference. Petitioner appeared and represented herself. Hannah Czechowski appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-19.

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 ██████████ 2023, Petitioner applied for DSS funding for a vehicle purchase or repair (Exhibit A, p. 6). Petitioner submitted a Certificate of Title for a ██████████ ██████████ and repair estimates for a ██████████ ██████████ (Exhibit A, pp. 8-11).
2. On December 12, 2023, Petitioner submitted proof of monthly Retirement, Survivors and Disability Insurance (RSDI) income to MDHHS (Exhibit A, pp. 12-13).
3. On January 30, 2024, MDHHS sent Petitioner a Quick Note stating that Petitioner did not meet the requirements for vehicle repair (Exhibit A, p. 14).

4. On March 20, 2024, Petitioner requested a hearing regarding the denial of DSS (Exhibit A, p. 15).

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 2023), p. 1.

In this case, MDHHS denied Petitioner's application for DSS for vehicle purchase and/or repair because she did not meet the program requirements. MDHHS alleged that she did not meet the program requirements because she did not have employment or children under 18 (Exhibit A, p. 5).

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.* ESS are only available to CDC (Child Development and Care), MA (Medicaid) and FAP (Food Assistance Program) families if the family is applying for or receiving FAP, did not receive DSS for more than four consecutive months prior and no other resource is available. BEM 232, p. 4.

MDHHS authorizes vehicle repairs for each participant for a vehicle that is the primary means of transportation for employment-related activities, even if public transit is available. BEM 232, p. 16. MDHHS can authorize up to \$5,000.00 to purchase, not lease, a vehicle to be used as a participant's primary means of transportation for work or reemployment-related activities. BEM 232, p. 16. Vehicle purchase is limited to once in a client's lifetime. *Id.* A vehicle may be purchased for a client who is not currently employed if the client (i) has a demonstrated ability to maintain a job; (ii) needs a vehicle to accept a verified job offer; (iii) needs a vehicle to participate in family self-sufficiency activities what will prepare the client for employment. *Id.*, p. 17.

Before authorizing a purchase for a vehicle, several other requirements must be met. MDHHS must ensure that public transportation is not reasonably available; the client has ability to afford any payments, insurance and other expenses associated with owning a vehicle; the client has a valid Michigan driver's license; the client does not own an unusable vehicle; and the vehicle must be registered to an eligible group member and insurance. BEM 232, p. 17.

Here, MDHHS alleged that Petitioner was not eligible for DSS for vehicle repair or purchase because she did not have employment and did not have children under 18. However, the policy provides that DSS is available to clients who need transportation in order to obtain employment or to attend employment-related activities. Additionally, MDHHS failed to adequately explain the requirement that an individual have a child or children under 18 in order to qualify for DSS. Although DSS is discretionary depending on available funding, MDHHS did not adequately explain the reasons for a denial and failed to demonstrate that Petitioner's application was processed pursuant to policy. DSS is administered by both MDHHS and the PATH program, and certain applicants may be eligible even if not participating in PATH. It is unclear whether Petitioner was receiving CDC, FAP or MA benefits from the record.

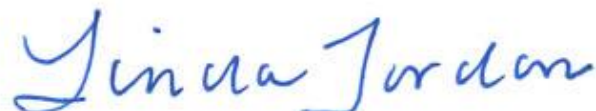
At the hearing, Petitioner testified that she wanted to purchase a vehicle so that she could obtain employment. Petitioner testified that she previously had employment through temp agencies and that she wished to return to the labor force. The purpose of DSS is to remove employment-related barriers, including transportation barriers. Assuming that Petitioner was the recipient of CDC, FAP, or MA, or applying for those programs, MDHHS should have determined whether she qualified for vehicle purchase or repair, and requested additional information, if necessary, under the relevant policies.

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 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. Reprocess Petitioner's November 22, 2023 application for DSS and redetermine Petitioner's eligibility for vehicle purchase or repair; and
2. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/pt

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
Hannah Czechowski
Genesee County DHHS Clio Rd Dist.
4809 Clio Road
Flint, MI 48504
MDHHS-Genesee-Clio-Hearings@michigan.gov

Interested Parties
BSC2
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]