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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 27, 2022
MOAHR Docket No.: 22-001017
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on April 20, 2022. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Candice Benns, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) 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 ██████████ 2022, Petitioner applied for FIP benefits and reported that she homeschooled her children.
2. On January 31, 2022, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's children's school compliance.
3. On February 9, 2022, Petitioner submitted proof of her children's homeschool compliance.
4. On ██████████ 2022, MDHHS denied Petitioner's FIP application due to an alleged Petitioner failure to verify her children's school compliance.

5. On March 11, 2022, Petitioner requested a hearing to dispute the denial of FIP benefits. Petitioner also requested a hearing to dispute State Emergency Relief (SER) eligibility.
6. On April 20, 2022, Petitioner verbally withdrew her dispute concerning SER.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner requested a hearing, in part, to dispute a denial of SER benefits. Exhibit A, pp. 3-7. The evidence indicated that Petitioner applied for SER on [REDACTED] 2022. During the hearing, Petitioner testified that she no longer disputes the denial of SER.¹ MDHHS had no objections to Petitioner's partial hearing request withdrawal. Concerning the SER dispute, Petitioner's hearing request will be dismissed.

The 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. MDHHS administers the 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. FIP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a denial of FIP benefits. Exhibit A, pp. 3-7. Both parties agreed that Petitioner applied for FIP benefits on [REDACTED] 2022. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner's application was denied due to a failure to verify information.² Exhibit A, p. 10-11. MDHHS testimony clarified that Petitioner specifically allegedly failed to verify the school participation for her homeschooled children.

Dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, to enhance their potential to obtain future employment leading to self-sufficiency. BEM 245 (April 2021) p. 1. A dependent child aged 6 through 15 years must attend school full-time. *Id.* If a dependent child aged 6 through 15 is not attending school full-time, the entire FIP group is not eligible. *Id.*

¹ MDHHS's Hearing Summary indicated that Petitioner's SER application was approved and that she reapplied in [REDACTED] 2021. Exhibit A, pp. 1-2. Petitioner's hearing request indicated she only requested a hearing because she was told that another worker would process her SER eligibility and that she was told that it was "no concern of hers" who processed her application. Exhibit A, pp. 3-4. Because Petitioner withdrew her SER dispute, it is of no matter whether MDHHS approved or denied Petitioner's first SER application and/or what MDHHS told Petitioner.

² The notice also stated that the group was not eligible due to a lack of children as group members. During the hearing, MDHHS acknowledged that this basis for denial was improper.

MDHHS is to verify a child's school attendance once the child turns 7 years of age. *Id.*, p. 10.

School includes a home school. *Id.*, p. 2. For home schools, verification of the organized educational program used, curriculum agenda, instruction materials or student records may be used. *Id.*, p. 12. The SM-4325, Nonpublic School Membership Report, may also be used, but completion of this form is voluntary for home schools. *Id.*

For all programs, MDHHS is to use a VCL to request verification. BAM 130 (January 2022) p. 3. MDHHS must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. MDHHS is to send a negative action notice when either:

- the client refuses to provide verification; or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*, p. 7.

MDHHS did not present a VCL, though it was not disputed that one was sent to Petitioner requesting proof of Petitioner's children's school attendance on January 31, 2022. The due date for returning verification was February 10, 2022.

Petitioner's testimony claimed that she sent MDHHS proof of her children's homeschool compliance on February 9, 2022, and again on March 4, 2022. Petitioner's testimony was consistent with a portion of an email sent to MDHHS on February 9, 2022 stating that the verification was electronically sent. Exhibit A, p. 5.

MDHHS testimony denied receiving Petitioner's verification on February 9, 2022.³ MDHHS did not present corroborating evidence such as documentation of Petitioner's Electronic Case File.⁴ However, MDHHS acknowledged receiving homeschool documentation from Petitioner on March 4, 2022. Exhibit A, p. 12. MDHHS initially contended that the documentation was inadequate due to lacking the name and grades for Petitioner's children. MDHHS testimony later acknowledged that it possessed Petitioner's children's homeschool curriculum and an SM-4325, either of which would be acceptable verification. MDHHS testimony further acknowledged that Petitioner's documentation was timely submitted and that Petitioner's FIP application was improperly denied.⁵

Given the evidence, Petitioner timely submitted verification of her children's school participation. Thus, MDHHS improperly denied Petitioner's application for FIP benefits dated [REDACTED] 2022.

³ Petitioner's detailed hearing request indicated that MDHHS told her that she sent blank documents.

⁴ An ECF is a database of a client's submissions.

⁵ MDHHS testified that Petitioner's application for FIP benefits was already re-registered for [REDACTED] 2022, though it remained pending for unspecified reasons. Because corroboration of MDHHS's testimony was not presented, an order to re-register and process the application is apt.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FIP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's FIP application dated [REDACTED] 2022;
- (2) Reprocess Petitioner's application, subject to the finding that Petitioner timely verified her children's homeschool participation; and
- (3) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki

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

Email Recipients:

MDHHS-Wayne-41-Hearings
B. Sanborn
MOAHR
BSC4

First-Class Mail Recipient:

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