



GRETCHEN WHITMER
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: July 15, 2022
MOAHR Docket No.: 22-002532
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 July 13, 2022 via teleconference. Petitioner appeared and represented herself. ██████████ appeared as an Arabic interpreter. The Michigan Department of Health and Human Services (MDHHS or Department) failed to appear.

ISSUE

Did MDHHS properly deny Petitioner's application for Family Independence Program (FIP) cash 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.
2. On June 2, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that she was denied for FIP/cash assistance from June 16, 2022 ongoing (Exhibit 1, p. 6). The reasons given for the denial were that Petitioner's group was over the income limit for the program, certain individuals in the household were considered adults and certain individuals in the household were not eligible for FIP due to non-cooperation with school attendance requirements (Exhibit 1, p. 6). The notice listed eight people in the household (Exhibit 1, p. 6).
3. On ██████████ 2022, Petitioner filed a Request for Hearing to dispute the denial of her FIP application (Exhibit 1, pp. 3-4).

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) 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.

In this case, Petitioner filed a Request for Hearing to dispute the denial of her FIP application. MDHHS did not appear at the hearing. Accordingly, this decision is based solely on Petitioner's testimony and the documents that MDHHS prepared for the hearing, which were admitted as Petitioner's Exhibit 1.

According to the Hearing Summary prepared by MDHHS, Petitioner was not eligible for FIP due to excess income because MDHHS determined that Petitioner's husband, [REDACTED] (Husband) was a member of the household, and therefore, his income should be included (Exhibit 1, p. 1). MDHHS determined that Husband's earned income was \$[REDACTED] per month and Petitioner reported receiving [REDACTED] per month in child support (Exhibit 1, p. 1). Petitioner disputed that Husband was part of the household and asserted that the caseworker added him to the household based on a misunderstanding caused by the language barrier.

For FIP, MDHHS must determine group composition. The eligibility determination group (EDG) means those persons living together whose information is needed to determine eligibility for assistance. BEM 515, p.1. The certified group (CG) refers to the people in the EDG who meet all non-financial eligibility factors for the program. *Id.* "Living together" means sharing a home where family members usually sleep except for temporary absences. BEM 210 (July 2021), p. 3. A temporarily absent person is considered to be living in the home when all of the following are true: (i) the individual's location is known; (ii) there is a definite plan to return; (iii) the individual lived with the FIP EDG before the absence; (iv) the absence has lasted or is expected to last 30 days or less, subject to certain exceptions. BEM 210, pp. 3-4.

Here, Petitioner provided credible testimony that Husband was not living in the household with the family. She stated that he was a commercial truck driver and that he was frequently on the road and that he stayed with friends, depending on his location and work schedule. Petitioner further explained that MDHHS called Husband to conduct an interview, however, Husband speaks limited English, and there was a misunderstanding regarding his living situation. MDHHS was not at the hearing to provide any testimony to the contrary.

MDHHS is required to obtain verification when it is mandated by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a VCL to request verification from clients. *Id.* Clients must submit the requested verifications, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has elapsed and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.* Before determining eligibility, MDHHS is required to give the client a reasonable opportunity to resolve any discrepancy between his or her statements and information provided from another source.

In this case, there was a discrepancy between Petitioner's statements regarding her group composition and information that MDHHS obtained from another source. MDHHS is required to allow clients a reasonable opportunity to clarify any discrepancies. No evidence was presented that MDHHS sent Respondent a VCL to verify the group composition or otherwise afforded her an opportunity to clarify the information.

Additionally, Petitioner is an Arabic speaker with limited knowledge of the English language. Based on her testimony, she has struggled to access benefits and understand her rights due to the language barrier. MDHHS is required to assist clients who are not fluent in English and is responsible for providing appropriate interpreters to persons with limited English proficiency (LEP) to afford such persons an equal opportunity to participate in or benefit from MDHHS programs and services. BAM 105 (April 2022), pp. 15-16.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FIP benefits.

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. Reregister Petitioner's [REDACTED], 2022 FIP application;

2. Determine Petitioner's eligibility for FIP benefits from May 20, 2022 ongoing, allowing Petitioner a reasonable opportunity to resolve any discrepancies and providing appropriate translation services;
3. If Petitioner is eligible for FIP benefits, issue supplements to Petitioner for FIP benefits that she was eligible to receive but did not from May 20, 2022 ongoing; and
4. Notify Petitioner of its decisions in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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 / Interested Parties
Tara Roland 82-17
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B. Sanborn/M. Schoch
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Via-First Class Mail :

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