



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: November 23, 2022
MOAHR Docket No.: 22-004755
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on November 14, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Tonya Boyd, Family Independence Manager.

ISSUE

Did MDHHS properly deny Petitioner's [REDACTED] 2022 application for Food Assistance Program (FAP) and Child Development and Care (CDC)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP and CDC.
2. On July 26, 2022, MDHHS informed Petitioner that her FAP case was closed, effective September 1, 2022, for failure to verify employment and income information (Exhibit D, pp. 1-6).
3. On July 26, 2022, MDHHS informed Petitioner that she was approved for CDC until August 12, 2023 (Exhibit D, pp. 1-6).
4. On an unknown date, MDHHS closed Petitioner's CDC case for failure to return income and employment verification from her employer Trusted Care at Home Health (Employer).
5. On August 25, 2022, Petitioner applied for FAP and CDC for a group size of three.

6. On September 20, 2022, MDHHS issued an Appointment Notice to Petitioner informing her that she has an application interview via telephone scheduled for September 23, 2022 (Exhibit B, p. 1).
7. On September 20, 2022, MDHHS issued a Verification Checklist (VCL) to Petitioner requesting income and employment verification from Employer. MDHHS requested this information be submitted by September 30, 2022 (Exhibit A, pp. 8-9).
8. On September 23, 2022, MDHHS issued a CDC Provider Verification to Petitioner to verify her childcare expenses. Petitioner returned this completed form on or about September 29, 2022 (Exhibit A, pp. 12-13).
9. On September 23, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that her FAP application was denied for failure to complete the required application interview (Exhibit A, pp. 6-7).
10. On October 12, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP and CDC cases, followed by a denial of her new FAP and CDC application (Exhibit A, 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 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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Child Development and Care (CDC) program 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. The Department 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 disputes the closure of her FAP and CDC cases and denial of her new application for FAP and CDC.

Petitioner was an active FAP and CDC recipient. MDHHS discovered that Petitioner worked for Employer after conducting a Consolidated Inquiry search (see Exhibit E). MDHHS testified that since Petitioner failed to report this employment and income, they closed her FAP case. MDHHS testified that Petitioner's CDC was closed in error since current policy under the pandemic requires that an approved CDC case must remain open for one year. Petitioner's FAP case was closed effective September 1, 2022 (see Exhibit D). Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. MDHHS must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. For FAP cases, MDHHS must allow the client 10 calendar days to provide the verification that is requested. For CDC cases, if the client cannot provide the verification despite a reasonable effort, MDHHS must extend the time limit at least once. MDHHS is not to close a case and send a negative action notice until the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. On September 20, 2022, MDHHS issued a VCL to Petitioner requesting information on her employment and income from Employer, after Petitioner re-applied for FAP and CDC (see Exhibit A, pp. 8-9). No evidence was presented as to whether this verification had been requested prior to closing Petitioner's FAP case. Additionally, MDHHS had access to Petitioner's income information from Employer from the Consolidated Inquiry Search. It is unclear what additional information MDHHS was seeking from Petitioner or whether Petitioner was notified that verification of income was required. While Petitioner should have timely reported this income, MDHHS did not act in accordance with policy in failing to request verification of income and employment from Petitioner prior to closing her FAP and CDC cases. Therefore, MDHHS erred in closing Petitioner's FAP and CDC cases.

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 did not act in accordance with Department policy when it closed Petitioner's FAP and CDC cases.

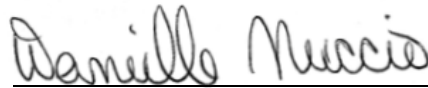
DECISION AND ORDER

Accordingly, the Department's decision 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. Reinstate Petitioner's FAP case as of September 1, 2022;
2. Reinstate Petitioner's CDC case as of September 1, 2022;

3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from September 1, 2022 ongoing;
4. If Petitioner is eligible for CDC benefits, issue supplements to Petitioner for any CDC benefits she was eligible to receive but did not from September 1, 2022 ongoing;
5. Notify Petitioner of its decision in writing.



DN/mp

Danielle Nuccio
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

DHHS-Wayne-15-Greydale-Hearings

L. Brewer-Walraven

D. Sweeney

M. Holden

MOAHR

BSC4

Via-First Class Mail :

Petitioner

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