



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 28, 2022
MOAHR Docket No.: 22-004828
Agency No.: ██████████
Petitioner: ██████████

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 21, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Jacob Frankmann, Lead Worker.

ISSUES

1. Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case?
2. Did MDHHS properly deny Petitioner's application for cash assistance/Family Independence Program (FIP)?
3. Did MDHHS properly deny Petitioner's application for Medical Assistance (MA)?

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 for a group size of one.
2. On ██████████ 2022, Petitioner applied for cash assistance/FIP, FAP, and MA.
 - a. Petitioner was a group size of one at the time but pregnant with one child.
 - b. Petitioner reported being ██████ years old at the time of her application.
 - c. Petitioner reported attending college.

- d. Petitioner requested to be removed from her mother's MA case, explaining that they no longer live together.

Exhibit A, pp. 8-22

3. On August 24, 2022, a Verification Checklist (VCL) was issued to Petitioner requesting verification of her pregnancy and residential address. MDHHS requested this information be submitted by September 6, 2022, in order to determine her eligibility for FIP (Exhibit A, pp. 23-25).
4. Effective September 1, 2022, MDHHS closed Petitioner's FAP case due to being an ineligible student.
5. MDHHS denied Petitioner's MA case due to her being active on her mother's case.
6. On October 3, 2022, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FIP application was denied for failure to verify proof of pregnancy to show that an eligible child is a member of the group (Exhibit A, pp. 26-29).
7. On October 14, 2022, MDHHS received a timely submitted hearing request from Petitioner disputing that her FAP case was closed and that her application for FIP and MA were denied (Exhibit A, pp. 3-6).

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).

Food Assistance Program (FAP):

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.

In this case, Petitioner was an active recipient of FAP at the time that she applied for FAP, FIP, and MA on [REDACTED] 2022. On this application, Petitioner reported that she was attending college. MDHHS is required to evaluate each change reported and determine if it affects eligibility. BAM 220 (April 2022), p. 1. When MDHHS received this information regarding Petitioner attending college, they needed to re-evaluate her eligibility for FAP.

A person enrolled in a post-secondary education program may be in student status and must meet certain criteria in order to be eligible to receive FAP benefits. BEM 230B (January 2018), p. 5; BEM 245 (April 2021), p. 2. A person is in student status if she is:

- Age 18 through 49 and
- Enrolled half-time or more in a: regular curriculum at a college or university that offers degree programs, regardless of whether a diploma is required.

(BEM 245, p. 3-4).

Here, Petitioner confirmed that she was ■ years old and was enrolled full-time in college at the time of her application. Therefore, Petitioner would be considered in student status.

In order for a person in student status to be eligible to receive FAP benefits, they must meet one of the following criteria:

- Receiving Family Independence Program (FIP).
- Enrolled in an institution of higher education as a result of participation in certain qualified programs as outlined below:
 - A Job Training Partnership Act (JTPA) program.
 - A program under section 236 of the Trade Readjustment Act of 1974 us 19 USC 2341, et. seq.
 - Enrolled in a FAE&T or FAE&T plus, in a component or components that are either:
 - Part of a program of career and technical education as defined under the Perkins Strengthening Career and Technical Education Act (Perkins V) and a course of study that will lead to employment.
 - Are limited to remedial courses, basic adult education, literacy, or English as a second language.
- In an employment and training program for low-income households operated by state and local government where one or more of the components of such program is at least equivalent to an acceptable FAP employment and training program component under the Carl D Perkins Career and Technical Education Improvement Act of 2006 (leading to employment in fields such as data entry occupations, medical and health care careers, HVAC and refrigeration, hospitality, and tourism management).
- Participating in another state or local government employment and training program.
- Employed for at least an average of 20 hours per week and paid for such employment.
- Self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.

- Participating in a state or federally funded work study program during the regular school year.

(BEM 245, p. 4-5)

The policy also expressly provides that the Consolidated Appropriations Act of 2021, temporarily expands student eligibility for students who have an Expected Family Contribution (ECF) of \$0 in the current academic year based on the student's FAFSA. This exemption will remain effective until 30 days after the COVID-19 public health emergency is lifted. BEM 245, p. 5.

Here, MDHHS testified that Petitioner did not meet any of the criteria to be eligible to receive FAP while in student status. Petitioner had a pending application for FIP which was ultimately denied (discussed below). Petitioner confirmed that she was not working at least 20 hours at the time that she was enrolled in school. However, no evidence was presented that information regarding whether Petitioner met any other eligible criteria to receive FAP while in student status was requested of Petitioner. MDHHS is required to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (January 2022), p. 1. In particular, Petitioner's eligibility for FAP while in student status depended on whether she had an ECF of \$0.00 based on her FAFSA. Since this eligibility factor was incomplete, MDHHS should have requested further information by informing Petitioner what verification is required, how to obtain it, and the due date as required by BAM 130, p. 3. Since MDHHS failed to show that it considered Petitioner's student eligibility under any other criteria, and did not request verification of Petitioner's eligibility, they did not act in accordance with policy when concluding that Petitioner was not an eligible student to receive FAP. Therefore, MDHHS did not act in accordance with policy in closing Petitioner's FAP case.

Family Independence Program (FIP):

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. The Department (formerly known as the Department of Human Services) 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.

Cash assistance is available to eligibility determination groups who meet all of the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. In order to evaluate FIP eligibility, a FIP eligibility determination group (EDG) must exist. BEM 209 (January 2022), p. 1. To be eligible for FIP, the group must include a dependent child who lives with a legal parent. BEM 210 (July 2021), p. 1. In this case, Petitioner was pregnant at the time of her FIP application, prompting MDHHS to issue a VCL to verify her pregnancy and that she would have a dependent child in the near future (see Exhibit A, pp. 23-25). Petitioner confirmed that she did not submit proof of her pregnancy to MDHHS. Petitioner had no other children at the time of her application. Without a dependent child, Petitioner would not qualify for

FIP. Therefore, MDHHS acted in accordance with policy in denying Petitioner's FIP application.

Petitioner was advised at the hearing that now that her child is born, she may re-apply for FIP at any time.

Medical Assistance (MA):

The Medical Assistance (MA) program 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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner applied for MA as an ■-year-old, pregnant woman, living in an independent living situation. Petitioner expressly requested on her application to be removed from her mother's MA case, stating that they do not live together and Petitioner is independent.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. Group composition for MAGI-related categories follows tax filer and tax dependent rules. The MAGI related groups are:

- Children (under 19). The income limit for children birth to age 1 is 195 percent of the federal poverty level (FPL). The income limit for a child age 1-19 is 160 percent FPL.
- Pregnant Women (PW). The income limit for pregnant women of any age is 195 percent FPL.
- Parents and caretakers (PCR). The income limit for parents and caretakers is 54 percent FPL.
- Healthy Michigan Plan (HMP). The income limit for adults age 19-64 is 133 percent FPL.
- Former foster children (FCTM). There is no income test for individuals' ages 18-26 who were in foster care in Michigan at age 18.
- MOMS. The income limit for pregnant women of any age is 195 percent FPL.
- MICHild. The income limit for children birth to age 19 is 212 percent FPL.

The size of the household will be determined by the principles of tax dependency in the majority of cases. The household for a tax filer, who is not claimed as a tax dependent, consists of the individual. The household for a non-tax filer who is not claimed as a tax dependent, consists of the individual (BEM 211 (July 2019), pp. 1-2).

In this case, Petitioner expressly stated, in writing, that she did not live with her mother and wished to have her own MA case. MDHHS speculated that this request may have been denied due to the COVID-19 public health emergency. At this time, MDHHS is prohibited from closing MA cases unless the client requests such closure verbally or in writing, or (beginning September 1, 2021) if they are not validly enrolled. An individual is not validly enrolled if MDHHS made a mistake in their initial eligibility determination, or if they are found to have committed fraud or abuse. Emergency Services Administration (ESA) ESA 2020-20. ESA 2020-20 also provides that that the prohibition against closure does not apply when a client qualifies for equivalent coverage on another MA plan. Since Petitioner does not live with her mother and asked to be evaluated for eligibility under her own MA case, MDHHS did not act in accordance with policy in denying Petitioner's MA application because she is active on her mother's case.

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 acted in accordance with Department policy when it denied Petitioner's FIP application, but did not act in accordance with Department policy when it closed Petitioner's FAP case and denied Petitioner's MA application.

DECISION AND ORDER

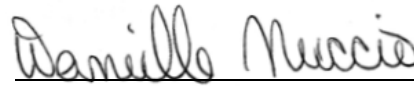
Accordingly, MDHHS' decision is **AFFIRMED IN PART** with respect to FIP, **REVERSED IN PART** with respect to FAP, and **REVERSED IN PART** with respect to MA.

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. Issue a verification checklist to determine whether Petitioner was an eligible student to receive FAP at the time of her [REDACTED], 2022 application;
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. Reprocess Petitioner's [REDACTED] 2022 MA application;
5. If Petitioner is eligible for MA benefits, issue supplements to Petitioner for any MA benefits she was eligible to receive but did not from August 1, 2022 ongoing;

6. Notify Petitioner of its decision(s) 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

MDHHS-Oakland-6303-Hearings

EQAD Hearings

D. Sweeney

B. Sanborn

C. George

M. Holden

MOAHR

BSC4

Via-First Class Mail :

Petitioner

[REDACTED]

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[REDACTED] MI [REDACTED]