



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: February 8, 2023
MOAHR Docket No.: 23-000057
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 2, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Kristina Warner, Hearing Facilitator. Department Exhibit 1, pp. 1-33 was received and admitted.

ISSUE

Did the Department properly process Petitioner's Direct Support Services (DSS) vehicle repair request?

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 requested DSS for car repair in November 2022.
2. On January 5, 2023, Petitioner's redetermination for FAP was processed and verification checklist was sent to her requesting verification of disability and donation.
3. On January 12, 2023, Petitioner requested a hearing regarding FAP and DSS.
4. On January 25, 2023, Petitioner's FAP case was closed.
5. On February 1, 2023, Petitioner's FAP case was reinstated, and she testified at hearing that she was satisfied with the Department action with regard to her FAP case.

6. Petitioner's DSS vehicle repair request had not been denied at the time of hearing.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

Vehicle Repair

FIP, CDC, MA Family, FAP Family

Authorize 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. The total MDHHS/PATH program cost of repairs may not exceed \$900 including any repairs done in the previous 12 months. Clients may contribute any amount over \$900 prior to MDHHS payment.

Prior approval is required MDHHS before authorizing a major repair, ensure that all the following conditions are met:

An eligible group member owns the vehicle.

The client requesting the service has a valid driver's license.

The repair is expected to make the vehicle safe and roadworthy including new tires, headlamps, batteries, etc.

If the client requesting the service does not have a valid driver's license but has someone else use their vehicle to drive them, document the name of the person driving the vehicle. Verify a valid driver's license for the individual that will be operating the vehicle.

A vehicle may be repaired for a currently employed client if the client needs a vehicle to accept a verified offer of a better job or needs a vehicle to retain current employment; and has a demonstrated ability to maintain a job.

A vehicle may be repaired for a client who is not currently employed if the client needs a vehicle to accept a verified job offer; or needs a vehicle to participate in family self-sufficiency activities that will prepare the client for employment.

A lease vehicle may be repaired for a client when there is at least 12 months left in the lease agreement and the client is up to date with the lease payments.

An estimate of the vehicle repair is required and must be placed in the electronic case file.

Do not authorize any vehicle repair for a vehicle that has been purchased within the last 60 calendar days.

If the vehicle repair being approved is \$500.00 or more, the specialist will be required to enter a comment on the **DSS Service Request - Additional Information** screen explaining the reason for the payment of \$500.00 or over.

Any payment authorized by MDHHS for estimates or towing are **not** included in the \$900 limit; see *other ESS* in this item.
BEM 232

In this case, Petitioner's FAP case closed but it was reinstated on February 1, 2023, and Petitioner was satisfied with the Department action with regard to her FAP case.

Petitioner raised issues with regard to her DSS vehicle repair request in her verbal request for hearing and at hearing. The Department representative acknowledged at hearing that the vehicle repair request had not been denied at the time of hearing. The Department representative testified that she anticipated it being denied and that she would be issuing a written denial. The Department should have processed and issued a written approval or denial of DSS vehicle repair within the standard of promptness, and they failed to do so.

Petitioner testified at hearing that she was approved for a \$900 vehicle repair and received something in writing to that effect. The Department representative testified at hearing that there was nothing in Petitioner's case file showing she was approved for DSS car repair. Petitioner did not present the written approval at hearing. Petitioner failed to present sufficient evidence to show she was approved for DSS vehicle repair. If

Petitioner's DSS vehicle repair is denied and she disagrees with that denial she can request a hearing and address that at a hearing in the future.

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 Department did not act in accordance with Department policy when it failed to process Petitioner's DSS vehicle repair request.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to DSS.

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. Process Petitioner's DSS vehicle repair request.
2. Issue an approval or a denial for Petitioner's DSS vehicle repair request.

AM/nr



Aaron McClintic
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
Tamara Little
Jackson County DHS
301 E. Louis Glick Hwy.
Jackson, MI 49201
MDHHS-Jackson-
Hearings@michigan.gov

Interested Parties
Jackson County DHHS
BSC4
K. Schulze
E. Holzhausen
MOAHR

Via-First Class Mail :

Petitioner

_____, MI _____