



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: May 9, 2023
MOAHR Docket No.: 23-001804
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 May 1, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Karl Norgan, Eligibility Specialist.

ISSUE

Did MDHHS properly process Petitioner's application for the Family Independence Program (FIP) and 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. On ██████████ 2022, Petitioner applied for FIP and MA benefits for Farrah Kish (Child).
 - a. Petitioner is Child's guardian.
 - b. Child is ██████████ years old.
 - c. Child attends school full-time.
 - d. Child is employed at ██████████ (Employer).
 - e. Petitioner only applied for benefits for Child but is a household size of three.

2. On January 11, 2023, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that she submit proof of Child's last 30 days of income from Employer. MDHHS requested that this information be submitted by January 23, 2023 (Exhibit A, pp. 7-9).
3. On January 23, 2023, MDHHS received Petitioner's timely submitted paystubs for Child from November 25, 2022, December 2, 2022, December 16, 2022, and January 20, 2023, and Child's 2022 W2 (Exhibit A, pp. 11-14).
4. On March 24, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her cash assistance application was denied for failure to return verification of earned income for Child (Exhibit A, pp. 16-19).
5. On March 30, 2023, MDHHS received Petitioner's hearing request disputing the denial of Child's MA and cash assistance application (Exhibit A, pp. 3-5).

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. 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.

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.

Petitioner submitted an application on Child's behalf for FIP and MA on [REDACTED] 2022. The application was denied for failure to submit verification of 30 days of Child's income.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (October 2022), p. 5. Since Child was the applicant, MDHHS issued a VCL for Child's income information.

However, when considering eligibility for FIP, MDHHS must disregard the earnings of an individual who is all of the following:

- Under age 18.
- Attending elementary, middle, or high school including attending classes to obtain a GED.
- Living with someone who provides care or supervision.

BEM 501 (July 2022), p. 2.

In this case, Child is under the age of 18, attending school, and living with Petitioner, who provides care and supervision as Child's guardian. Therefore, MDHHS should not request or consider Child's income from employment in determining her eligibility for FIP. Since MDHHS should have disregarded Child's income, they should not have denied her application for failure to provide verification of 30 days of income. Therefore, MDHHS did not act in accordance with policy in denying Petitioner's application for FIP.

Petitioner also applied for MA on Child's behalf. No evidence was presented regarding the status of this [REDACTED] 2022 MA application. The Standard of Promptness (SOP) for processing an application begins the date the department receives an application/filing form, with minimum required information. For MA applications, MDHHS must certify program approval or denial of the application within 45 days. BAM 115 (October 2022), p. 15. In this case, Petitioner's MA application is well over the SOP for approval or denial. Therefore, MDHHS has not acted in accordance with policy in processing Petitioner's [REDACTED] 2022 MA application.

Should MDHHS argue that the delay in processing Petitioner's MA application was due to awaiting verification of Child's income, MDHHS must disregard the earnings of a dependent child in the Low-Income Family Medicaid (LIF) eligibility determination group (EDG) and disregard the earnings of an individual under age 19 who is living with someone who provides care or supervision when determining eligibility for Group 2 Under 21 (G2U) and Children Under 19 Medicaid. BEM 501, pp. 2-3. Again, MDHHS did not testify as to the status of Child's MA application. The MA programs that Child would most likely qualify for would not consider her income in determining her eligibility. Therefore, MDHHS has failed to satisfy its burden that it acted in accordance with policy in denying Petitioner's application for MA.

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 denied and processed Petitioner's [REDACTED], 2022 FIP and MA application.

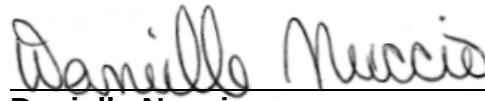
DECISION AND ORDER

Accordingly, MDHHS' 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. Reregister Petitioner's [REDACTED] 2022 MA and Cash Assistance application;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner's household for any Cash Assistance benefits she was eligible to receive but did not from [REDACTED] 2022 ongoing;
3. If Petitioner is eligible for MA benefits, provide coverage to Petitioner's household for any MA she was eligible to receive but did not from [REDACTED] 2022 ongoing;
4. 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
MDHHS-Macomb-20-Hearings
EQAD Hearings
M. Schaefer
B. Sanborn
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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