



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 15, 2024
MOAHR Docket No.: 24-000994
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 7, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Devonna Gilbert, Hearing Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-66.

Petitioner's hearing request addressed multiple programs and issues. A separate hearing was held to address the Home Help Services (HHS) benefits under MOAHR docket number 24-000724 and a separate hearing decision will be issued for that case.

Petitioner's hearing request indicated she did not get a C-PAP machine she needed. Petitioner's testimony indicated she is enrolled in a Medicaid Health Plan, United Health Care. Petitioner's hearing request cannot be processed as a valid request for this issue because it did not provide enough information. Federal changes that began in 2017 for Medicaid managed care enrollees require that an internal appeal process must be completed before an enrollee can ask for a state fair hearing. 42 CFR 438.400 et seq. If you are enrolled in a Managed Care Health Plan, MI Health Link, Community Mental Health Services Program/Prepaid Inpatient Health Plan (CMHSP/PIHP), or MI Choice Waiver program you need to finish their internal appeal process before you can ask for a state fair hearing with MOAHR. You may also ask for a state fair hearing if you asked for an internal appeal and your managed care organization did not send you a Notice of Appeal Decision within 30 days. The portion of the hearing request regarding the C-PAP appears to be about your Medicaid managed care services but does not show that you finished an internal appeal with the organization that provides your Medicaid service. Therefore, MOAHR cannot process your request for a state fair hearing. If you did

complete the internal appeal and received a copy of the notice of appeal decision from your managed care organization, please send MOAHR a copy of the Notice of Appeal Decision immediately.

ISSUES

Is there a hearable issue regarding Child Development and Care (CDC) benefits?

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP), Medical Assistance (MA), and State Emergency Relief (SER)?

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 January █ 2024, Petitioner applied for SER. (Exhibit A, pp. 10-22)
2. The Department made multiple attempts to contact Petitioner by phone regarding discrepancies and required information needed to process the SER application. (Exhibit A, p. 23)
3. On January █ 2024, a SER Decision Notice was issued to Petitioner denying SER based on a failure to verify or allow the Department to verify information necessary to determine eligibility. (Exhibit A, pp. 25-29)
4. On January █ 2024 a Notice of Case Action was issued to Petitioner stating FAP benefits had been reduced to \$█ per month effective February 1, 2024 for the household size of three. (Exhibit A, pp. 53-60)
5. The FAP reduction was due to an increase in income from Retirement Survivors Disability Insurance (RSDI). (Exhibit A, pp. 3 and 61-66)
6. On January █ 2024, Petitioner submitted an application for SER that was missing pages. (Exhibit A, pp. 30-39)
7. On January █ 2024, Petitioner submitted a hearing request contesting the Department's actions. (Exhibit A, pp. 5-8)
8. The Department confirmed that all household members have full MA coverage. (Exhibit A, pp. 1 and 47-51; HF Testimony)
9. Petitioner has subsequently been approved for SER with a co-pay of \$█ and an approval notice was issued. (HF Testimony)

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).

CDC

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 indicated that provided childcare several years ago and she did not receive payment. (Petitioner Testimony).

Pursuant to BAM 600, all clients have the right to request a hearing. The following people have authority to exercise this right by signing a hearing request: an adult member of the eligible group; or the client's authorized hearing representative (AHR). BAM 600, March 1, 2021, p. 2. Petitioner does not assert that she was a CDC client. Rather, Petitioner asserts that she was the CDC provider. Therefore, Petitioner could not be an adult member of the eligible CDC group. Further, there was no evidence that Petitioner is the AHR for a CDC client.

Additionally, BEM 704 states that neither childcare providers nor CDC recipients are entitled to administrative hearings based on a provider's denial or closure. BEM 704, October 1, 2022.

Accordingly, there is no jurisdiction to address payment to Petitioner as a CDC provider. Petitioner is not an adult member of an eligible CDC group nor is she the AHR for a CDC client. Further, even if there had been a CDC provider denial or closure regarding Petitioner, CDC providers are not entitled to administrative hearings based on a provider's denial or closure. Therefore, the CDC portion of Petitioner's hearing request must be **DISMISSED**.

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.

For FAP, persons who live together and purchase and prepare food together are members of the FAP group. Children include natural, step and adopted children. Parents and their children under 22 years of age who live together must be in the same group. A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. A person acting as a parent and the child(ren) for whom they acts as a parent who live with them must be in the same group. BEM 212, January 1, 2022, pp. 1-6.

In calculating the FAP budget, the Department considers the gross benefit amount of Social Security Administration issued Retirement Survivors and Disability Insurance (RSDI) as unearned income. BEM 503, January 1, 2023, pp. 29-30.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (April 1, 2023), p. 13. Shelter expenses include property taxes and insurance. BEM 554 p. 15. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, p. 16. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22

Petitioner initially testified that the FAP household composition was incorrect because she must have separate food from the other household members, who are her grandchildren. However, Petitioner subsequently indicated the household composition should not be changed. (Petitioner Testimony). Further, it appears that Petitioner's grandchildren are under age 22. (Exhibit A, pp. 30 and 48). Petitioner did not raise any other concerns regarding the FAP benefit calculation. Accordingly, the evidence indicates the Department properly determined Petitioner's eligibility for FAP.

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.

The Department confirmed that all household members have full MA coverage. (Exhibit A, pp. 1 and 47-51; HF Testimony). Petitioner did not raise any other concerns regarding MA eligibility. Accordingly, it appears that the Department properly MA eligibility for Petitioner's household.

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Clients must be informed of all verifications that are required and where to return verifications. The due date is eight calendar days, which begins on the date the DHS-3503, SER Verification Checklist is generated. The Department is to use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103. October 1, 2023, p. 6.

In this case, Petitioner applied for SER on January [REDACTED] 2024. Petitioner did not list her address and phone number on the application. The Department utilized the address and phone number of record. (Exhibit A, pp. 10-22; HF Testimony). The Department made multiple attempts to contact Petitioner by phone regarding discrepancies and required information needed to process the SER application. (Exhibit A, p. 23). On January [REDACTED] 2024, a SER Decision Notice was issued to Petitioner denying SER based on a failure to verify or allow the Department to verify information necessary to determine eligibility. (Exhibit A, pp. 25-29). However, there was no evidence that a DHS-3503, SER Verification Checklist was issued to Petitioner to request verifications. Accordingly, the January [REDACTED] 2024 denial of SER cannot be upheld.

As discussed, Petitioner reapplied for SER On January [REDACTED] 2024. (Exhibit A, pp. 30-39). Petitioner has subsequently been approved for SER with a co-pay of \$[REDACTED] and an approval notice was issued. (HF Testimony). As discussed, there is no jurisdiction to review the SER determination made after the January 30, 2024 hearing request as part of this hearing. If Petitioner disagrees with the more recent SER determination, she may wish to file another timely hearing request.

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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP and MA and did not act in accordance with Department policy when it determined Petitioner's eligibility for the January [REDACTED] 2024 SER application.

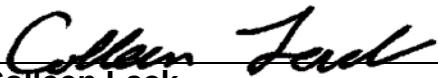
DECISION AND ORDER

Accordingly, the CDC portion of Petitioner's hearing request is **DISMISSED**. The Department's decisions regarding FAP and MA are **AFFIRMED**. The Department's decision regarding SER 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. If it has not already been completed, re-determine Petitioner's eligibility for the SER application in accordance with Department policy.

CL/dm


Colleen Lack
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
Elisa Daly
Saginaw County DHHS
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BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]

[REDACTED]

[REDACTED]