



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: July 24, 2024
MOAHR Docket No.: 24-005689
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 July 17, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Eligibility Specialist. Wael Resol served as Arabic interpreter.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits and process his Medical Assistance (MA) eligibility?

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 or around [REDACTED] 2023, Petitioner submitted an application requesting MA benefits for himself and his two children.
2. On or around [REDACTED] 2024, Petitioner submitted an application requesting FAP benefits. (Exhibit A, pp.6-14)
3. On or around March 20, 2024, the Department sent Petitioner a Notice of Case Action, advising that his FAP application was denied because the household's gross income exceeded the income limit.
4. On or around May 9, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the FAP and MA program. (Exhibit A, pp. 3-4)

5. The Department conceded that Petitioner should have been approved for full coverage MA benefits under the Healthy Michigan Plan (HMP) and his children approved for MA under the full coverage Other Healthy Kids or MiChild categories.
6. After receiving Petitioner's hearing request, the Department determined that the [REDACTED] 2024, FAP application was denied in error, as it was denied before Petitioner participated in an application interview. Thus, the Department reprocessed the application in order to complete the interview process.
7. On or around May 20, 2024, the Department sent Petitioner an Appointment Notice, informing him that he was scheduled to have a telephone interview for his application on May 28, 2024, at 11:00 AM. (Exhibit A, p. 14)
8. The Department attempted to contact Petitioner to complete the application interview on May 28, 2024, but Petitioner did not answer.
9. On or around May 28, 2024, the Department sent Petitioner a Notice of Missed Appointment, advising him that he missed his scheduled application interview and instructing him to contact the Department to have the interview rescheduled. (Exhibit B)
10. The Department asserted that Petitioner did not request that his interview be rescheduled and held on a new interview date.
11. On or around May 29, 2024, the Department sent Petitioner a Notice of Case Action, advising him that his [REDACTED] 2024, FAP application was denied because he failed to complete the interview requirement. (Exhibit B)

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).

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.

The Department is to conduct an interview at application for the FAP before approving benefits. BAM 115 (January 2023), p. 17-19. The Department is to schedule the interview promptly, in order to meet the standard of promptness. The person interviewed may be

any responsible group member, or AR. For FAP cases, the interview must be held by the 20th day after the application date to allow the client at least 10 days to provide the verifications by the 30th day. BAM 115, p. 22-24. Applicants are required to participate in the FAP interview process. If a client misses an interview appointment, the Department will send a DHS-254, Notice of Missed Interview, advising the client that it is now the client's responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, pp.18-24. If the client completes the application process after denial but within 60 days of the application date, the Department is to follow the subsequent processing policy outlined in BAM 115, and issue FAP benefits to Petitioner if determined eligible. BAM 115, pp. 25-26.

In this case, the Department representative testified that Petitioner's [REDACTED] 2024, FAP application was initially denied in error on March 20, 2024. The Department representative testified that after receiving Petitioner's request for hearing, the Department reregistered the original application and scheduled an application interview for May 28, 2024. The Department representative testified that more than one attempt to contact Petitioner to conduct the interview was made by the Department, with Petitioner not timely responding to have the interview completed or rescheduled. Therefore, the Department sent Petitioner a notice advising him that he missed his scheduled application interview and instructing him to contact the Department in order to have the interview rescheduled. The Department subsequently issued the May 29, 2024, Notice of Case Action, denying Petitioner's [REDACTED] 2024, FAP application for failure to complete the application interview. The Department representative testified that it received no request to reschedule the application interview. At the hearing, Petitioner testified that he is unsure whether he received a call from the Department on May 28, 2024. Petitioner testified that he received a letter from the Department but could not recall if it was the Appointment Notice or the Notice of Missed Appointment. Petitioner testified that he took documents to ACCESS, a social services organization because he needed assistance with translation of the documents but was unsure which documents he received. Petitioner also testified that he attempted to call the Department and stayed on the line for 30 minutes but no one answered. He indicated that he tried to return the Department's phone call but there was no answer. Petitioner could not recall the dates on which he contacted the Department. Petitioner's testimony was inconsistent and did not establish that he made a sufficient effort to have the FAP application interview rescheduled.

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 because Petitioner failed to participate in the application interview and failed to establish that he timely requested to reschedule the application interview, the Department acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2024, FAP application.

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 disputed the Department's processing of his [REDACTED] 2023, MA application for himself and his two minor children.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (July 2021), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

Children over age one and under age 19 are potentially eligible for three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (October 2023), pp. 1, 3-4; BEM 130 (July 2021), p. 1; BEM 131 (January 2022), p. 1; BEM 132 (April 2018), p. 1. The U19 and MiChild programs are Modified Adjusted Gross Income (MAGI)-related Group 1 MA categories, meaning that these categories provide full-coverage MA without a deductible for children whose household's income, calculated in accordance with MAGI rules, meets the income eligibility limits. BEM 131, p. 1.

At the hearing, the Department representative testified that although the application was processed, MA eligibility for all three household members was not certified. While the Department representative asserted that Petitioner's two children were initially approved for full coverage MA under the MiChild category and later, approved for MA under the Other Healthy Kids U19 category, the Department could not explain why the eligibility determination had not been certified for all months and for both children. The Department

also conceded that Petitioner should have been approved for full coverage MA under the HMP from December 1, 2023, ongoing and that his two children should have been approved for MA under the full coverage MiChild and/or Other Healthy Kids categories.

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 processed Petitioner's [REDACTED] 2023, MA application and determined the household's eligibility for MA benefits.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED 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. Provide MA coverage to Petitioner under the HMP from December 1, 2023, ongoing, if otherwise eligible, and
2. Provide full MA coverage to Petitioner's two children under the most beneficial category, that they were entitled to receive but did not from December 1, 2023, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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:

Respondent

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Interested Party

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
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