



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

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Date Mailed: October 11, 2024  
MOAHR Docket No.: 24-007111  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 hearing was held on September 11, 2024, via teleconference. Petitioner appeared and represented himself. Eric Carlson, Family Independence Manager, and Elyse Nemick appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-32.

### **ISSUE**

Did MDHHS properly process Petitioner’s application for cash assistance, including Family Independence Program (FIP) benefits and State Disability Assistance (SDA)?

### **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 ██████████ 2024, Petitioner filed a cash assistance application on behalf of himself and his son (Minor Child) (Exhibit A, pp. 6-8). Petitioner reported that he had a disability, and that Minor Child had a parent living outside the home (Exhibit A, p. 9). Petitioner indicated that he was currently applying or planning to apply for disability benefits from the Social Security Administration (SSA) (Exhibit A, p. 15).
2. On May 23, 2024, MDHHS sent Petitioner a Medical Determination Verification Checklist (VCL), which requested that he provide proof of certain medical records and his application for SSA disability benefits to MDHHS by June 6, 2024 (Exhibit A, p. 22).
3. On ██████████ 2024, Petitioner submitted the Medical – Social Questionnaire to MDHHS (Exhibit A, p. 24). However, the copy that MDHHS had in its possession

was missing pages. Petitioner did not provide the missing pages by [REDACTED], 2024, and MDHHS denied his application for SDA benefits (Exhibit A, p. 1).

4. On June 14, 2024, Petitioner requested a hearing (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. MDHHS 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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, MDHHS denied Petitioner's application for FIP benefits because it determined that he was not the primary caretaker of Minor Child. Additionally, MDHHS denied Petitioner's application for SDA because he failed to provide the requested verifications by the deadline. Petitioner disputed both determinations.

When an eligibility factor is in dispute or the information is unclear or incomplete, MDHHS is required to request verification. BAM 130 (May 2024), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.*, p. 4. Verifications are considered timely if they are received by the date that they are due. BAM 130, p. 7. For FIP and SDA, MDHHS allows the client ten calendar days to provide the verification. *Id.* For FIP and SDA, if the client contacts MDHHS prior to the due date and requests an extension or assistance, MDHHS may grant an extension or request for assistance. *Id.* In addition, before making a final determination regarding eligibility, MDHHS must give clients a reasonable opportunity to resolve any discrepancies between their statements and information from another source. *Id.*, p. 9.

For FIP, MDHHS must determine group composition. BEM 210 (July 2021), p. 1. The group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. *Id.* Joint physical custody occurs when parents or other caretakers alternate taking responsibility for the child's day-to-day care and supervision in separate homes. *Id.*, p. 3. It may be included in a court order or may be an informal arrangement

between parents or other caretakers. *Id.* The primary caretaker is the caretaker who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a month, when averaged over a twelve-month period. *Id.* The twelve-month period begins at the time the determination is being made. *Id.* When a child spends time in the home of multiple caretakers who do not live together (such as joint physical custody or parent/grandparent), MDHHS determines the primary caretaker based on the number of days per month a child sleeps in the home. *Id.*, p. 12. If the child sleeps in the home of multiple caretakers an equal number of days in a month, when averaged over a twelve-month period, such as every other week, the caretaker who applies and is certified eligible first is the primary caretaker for that program. *Id.*, p. 13. When the number of days per month a child sleeps in the home of multiple caretakers is questionable or disputed, MDHHS must give each caretaker the opportunity to provide evidence of their claim. *Id.*

Here, MDHHS initiated a FEE Investigation regarding the custody and parenting time arrangements concerning Minor Child in order to determine the primary caretaker for the purposes of FIP (Exhibit A, p. 1). MDHHS determined that Minor Child's mother, not Petitioner, was the primary caretaker because Minor Child was attending school in [REDACTED] [REDACTED] which is where the Minor Child's mother lived. When making its determination, MDHHS had a copy of the parties' Consent Order for Custody and Parenting Time, which indicated that the parties had joint physical and legal custody of Minor Child, and that each parent shall have [REDACTED] overnights with the child per year (Exhibit A, p. 16). The copy of the court document in MDHHS' possession was not signed by the judge (Exhibit A, p. 18).

At the hearing, Petitioner credibly testified that he and Minor Child's mother shared custody equally and that Minor Child slept in his household at least half of the days in the calendar year. He further testified that although Minor Child spent more overnights with his mother in the month of [REDACTED] 2024, because he was attending school near her house, Minor Child spent the entire summer with Petitioner.

The record shows that MDHHS based its determination regarding primary caretaker on the fact that Minor Child spent more overnights with his mother in [REDACTED] 2024; however, MDHHS was required to determine the primary caretaker based on a twelve-month period and not a one-month period. Additionally, if the parties have an equal number of overnights with Minor Child, the caretaker who applies and is certified eligible first is the primary caretaker for that program. MDHHS testified that it did not have a record of the Minor Child's mother applying for FIP; therefore, the caretaker who applied first would be Petitioner.

Additionally, the record shows that Petitioner was attempting to comply with MDHHS' verification requests regarding his SDA application and it is unclear whether MDHHS properly assisted Petitioner.

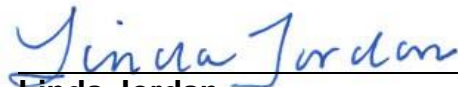
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FIP and SDA.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 and reprocess Petitioner's [REDACTED] 2024 application for cash assistance, requesting additional verifications as necessary;
2. If eligible, provide Petitioner with supplemental cash assistance payments based on the [REDACTED] 2024 application; and
3. Notify Petitioner of its decision(s) in writing.

LJ/pt

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**Linda Jordan**  
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**

Eric Carlson  
Mason County DHHS  
915 Diana St.  
Ludington, MI 49431

**MDHHS-Mason-Hearings@michigan.gov**

**Interested Parties**

BSC3  
B Sanborn  
L. Karadsheh  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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