



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



Date Mailed: August 23, 2024
MOAHR Docket No.: 24-007155
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 24, 2024. Authorized Hearing Representative (AHR) [REDACTED] was present at the hearing and represented Petitioner [REDACTED]. Also present at the hearing on behalf of Petitioner was Viktoria Kulcahytaka, a case manager, who served as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Marcella Towns, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner and his wife's (Spouse) Food Assistance Program (FAP) eligibility?

Did the Department properly determine Petitioner and Spouse's Medical Assistance (MA) eligibility?

Did the Department properly determine Petitioner and Spouse's cash assistance 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 [REDACTED] 2024, Petitioner submitted an assistance application to the Department for FAP, MA, and cash benefits for himself and Spouse. (Exhibit A, pp. 30-38). On the application, Petitioner reported that he and Spouse are refugees and that he was disabled and had applied for or planned to apply for disability benefits. (Exhibit A, pp. 33-34).

2. An I-94 Form (DHS Arrival/Departure Record) documented Petitioner and Spouse's U.S. entry date as March 28, 2024 from Ukraine. (Exhibit A, pp. 39-40).
3. Petitioner is disabled and receives monthly unearned Supplemental Security Income (SSI) of [REDACTED] from the Social Security Administration (SSA).
4. On June 4, 2024, the Department sent a Notice of Case Action (NOCA) to Petitioner informing him and Spouse that they were approved for FAP benefits for April 24, 2024 through April 30, 2024 in the amount of \$124 for a two-person household. (Exhibit A, pp. 42-46). The NOCA went on to note that the FAP case would close effective July 1, 2024 because "proper proof hasn't been provided to the [Department] verifying [Petitioner and Spouse] are refugees, and the [Department] has verified they are parolees." The NOCA stated that Petitioner and Spouse would not be eligible for FAP benefits until they have been in the US for five years.
5. On June 4, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that he was approved for full coverage MA from April 1, 2024 to May 31, 2024 only. (Exhibit A, pp. 52-56). The HCCDN also noted that effective June 1, 2024 Petitioner was denied MA coverage because the Department could not determine if Petitioner applied for Medicare. Further, Spouse was approved for Emergency Services Only (ESO) coverage due to refugee status. (Exhibit A, p. 52).
6. On June 6, 2024, the Department sent a NOCA to Petitioner informing him that his household was denied for cash assistance due to income exceeding the program limits. (Exhibit A, pp. 47-51).
7. On June 11, 2024, the Department received a request for hearing from Petitioner disputing its actions with respect to MA, FAP, and FIP benefits. (Exhibit A, pp. 3-29).

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).

Petitioner requested a hearing to dispute the Department's determination with respect to his application for MA, FAP and FIP benefits. The Department concluded that Petitioner and Spouse were not entitled to MA or FAP benefits due to their citizenship status and denied for cash assistance due to excess income from unearned income. Petitioner disputes the Department's determinations.

MA and FAP

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 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.

To be eligible for full Medicaid coverage (i.e., unrestricted Medicaid) and FAP benefits, a person must be a United States citizen, or an alien admitted to the U.S. under a specific immigration status. BEM 225 (January 2024), p. 2. For non-refugees and non-asylees, the Department prohibits unrestricted MA and FAP benefits during the benefit group's first five years in the United States. BEM 225, p. 32. For MA purposes, individuals without acceptable non-citizen status will have coverage that is limited to emergency services only (ESO). BEM 225, p. 2.

Petitioner's AHR's testimony and immigration documents verified that Petitioner and Spouse entered the U.S. on March 28, 2024, from Ukraine with a class of admission as "Ukrainian Humanitarian Parolees (UHP)". (Exhibit A, pp. 39-40). Policy Letter 22-13 from Health and Human Services (HHS) provides specific policy regarding UHPs and their eligibility to receive MA, FAP, and cash assistance. See Policy Letter 22-13 Ukrainian Humanitarian Parolees Eligible for ORR Benefits and Services. Additionally, an Economic Stability Administration (ESA) memo from MDHHS addresses UHPs and the policy's Field Impact. See ESA Memo 2022-28 Ukrainian Humanitarian Parolees. The memo explains:

The act authorizes citizens or nationals of Ukraine or Non-Ukrainian individuals who last habitually resided in Ukraine who arrive under the Uniting for Ukraine or are granted humanitarian parole eligibility for mainstream benefits including benefits available to refugees.

The ESA memo provides guidance for Department workers on how UHPs should be classified in the Bridges system. The ESA memo also notes that only citizens or nationals of Ukraine that have the immigration status of humanitarian parole will be eligible for benefits, which will be indicated on one of the following documents:

- Form I-94 noting humanitarian parole (per INA section 212(d)(5) or 8 U.S.C. §1182(d)(5))
- Ukrainian passport with DHS/CBP admission stamp noting "DT"
- Ukrainian passport with DHS/CBP admission stamp noting Uniting for Ukraine or "U4U"
- Ukrainian passport with DHS/CBP admission stamp noting Ukrainian Humanitarian Parolee or "UHP"

- Form I-765 Employment Authorization Document (EAD) receipt notice with code C11
- Form I-766 Employment Authorization Document (EAD) with the code C11
- A non-Ukrainian individual who last habitually resided in Ukraine and received humanitarian parole, has one of the documents listed above in addition to documentation verifying the last habitual residence in Ukraine

Here, Petitioner and Spouse provided the Department with Form I-94 which noted their UHP admission status. (Exhibit A, pp. 39-40). Therefore, under federal policy and the MDHHS ESA memo, Petitioner and Spouse's UHP status allows them to be treated as refugees, and potentially eligible for MA and FAP, provided they meet all other eligibility criteria. BEM 225, pp. 10-13.

Based on the above policy, Petitioner and Spouse's U.S. entry date, country of citizenship, and their UHP status, the Department should have considered Petitioner and Spouse's eligibility for MA and FAP benefits to the same extent as refugees. In other words, the Department should not have limited Petitioner and Spouse to emergency services only/no MA coverage and no FAP benefits, despite each having a U.S. entry date within the past five years.

Given the evidence, the Department improperly determined MA and FAP eligibility for Petitioner and Spouse.

RCA/SDA

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 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. Refugee Cash Assistance (RCA) is a federal program that helps refugees become self-sufficient after their arrival in the United States. BEM 215 (July 2013), p. 1. RCA is a cash program for refugees who are not eligible for FIP. State Disability Assistance (SDA) is established by the Social Welfare Act, MCL 400.1-.119b. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Regarding Petitioner's cash assistance application, which was denied due to excess income, a financial need must exist to receive FIP benefits. When an individual applies for cash assistance, the Department must determine eligibility for FIP, RCA and SDA, in that order. BEM 209 (January 2022), p. 1. Cash assistance is available to eligibility determination groups who meet all the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209, p. 1. Based on the evidence presented, the Department reviewed Petitioner's eligibility for RCA and determined that he was ineligible based on excess income. The RCA monthly assistance payment standard for a group size of two is \$403. RFT 211 (November 2021), p. 1.

At the hearing, Petitioner's AHR testified that Petitioner's SSI income was the sole income for the household in the amount of [REDACTED] per month. Because Petitioner's household income is in excess of the applicable payment standard of \$403 for a RCA group size of two, the Department properly determined that Petitioner and Spouse were ineligible for RCA assistance due to excess income.

However, the Department failed to present any evidence to show that it evaluated Petitioner's eligibility for SDA after it determined that he was ineligible for FIP and RCA. This was improper because Petitioner was not required to submit a separate application for SDA. The Department should have determined his eligibility for each program. This is especially true since Petitioner reported a disability on his application, and he is an SSI recipient.

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 denied Petitioner's RCA cash assistance application due to excess income but failed to satisfy its burden of showing that it acted in accordance with Department policy and evaluated Petitioner's eligibility for cash assistance under SDA. The Department did not act in accordance with Department policy when it determined Petitioner and Spouse's eligibility for MA and FAP.

DECISION AND ORDER

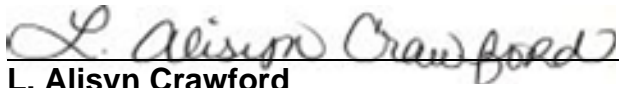
Accordingly, the Department's decision with respect to cash assistance, MA, and FAP are **REVERSED**.

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. Reprocess the MA and FAP eligibility of Petitioner and Spouse effective June 1, 2024, subject to the finding that Petitioner and Spouse are Ukraine nationals who entered the U.S. as parolees on March 28, 2024;
2. Reprocess Petitioner's application for cash assistance and determine eligibility for SDA;
3. If eligible, provide Petitioner and Spouse with the most beneficial MA coverage they are eligible to receive from June 1, 2024 ongoing;
4. If Petitioner and Spouse are eligible for FAP, issue supplements for any FAP benefits that they were entitled to but did not receive from the date of application ongoing;
5. If Petitioner is eligible for SDA, issue supplements for any cash assistance benefits that he was entitled to but did not receive from the date of application ongoing; and

6. Notify Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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

Susan Noel
Wayne-Inkster-DHHS
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Interested Parties

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M Holden
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N Denson-Sogbaka
M Schaefer
EQAD
B Sanborn
L Karadsheh
MOAHR

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
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Petitioner

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