



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 27, 2024
MOAHR Docket No.: 24-009522
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference on September 19, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist. Youssef Taha from the Language Line participated as an Arabic-English translator.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application.

The second issue is whether MDHHS properly denied Petitioner's application for 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 [REDACTED] [REDACTED] 2024, Petitioner applied for FAP, MA, and cash benefits. Petitioner reported a household with no other persons and no household income. Petitioner also claimed to be disabled.
2. On August 8, 2024, MDHHS mailed Petitioner a Medical Determination Verification (MD-VCL) Checklist requesting various documents including a Medical Social Questionnaire, Reimbursement Authorization, and others, due by August 19, 2024.

3. On August 8, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of disability and an unspecified unearned income by August 19, 2024.
4. On August 8, 2024, Petitioner requested a hearing to dispute MA benefits, cash, and FAP eligibility.
5. On August 13, 2014, MDHHS mailed Petitioner a Notice of Missed Appointment form warning that Petitioner missed a scheduled interview and had until August 17, 2024, to reschedule an interview or risk FAP application denial.
6. On August 19, 2024, MDHHS mailed Petitioner notice of a FAP telephone interview scheduled for August 26, 2024, from 11:00 a.m. to 1:00 p.m.
7. On August 24, 2024, MDHHS denied Petitioner's application for cash due to a failure to verify disability.
8. On August 24, 2024, MDHHS denied Petitioner's application for FAP due to a failure to verify unearned income and a failure to be interviewed.
9. On August 26, 2024, Petitioner went to the MDHHS office and was not interviewed by MDHHS.
10. On August 27, 2024, MDHHS approved Petitioner for MA benefits beginning July 2024.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing on August 8, 2024, in part, to dispute MA eligibility. Exhibit A, pp. 3-5. Petitioner applied for MA benefits on July 18, 2024.¹ Exhibit A, pp. 8-15. Petitioner testified he needs MA benefits to pay for a hospitalization from August 2024. MDHHS responded that Petitioner was approved for ongoing MA benefits. MDHHS's testimony was consistent with a Health Care Coverage Determination Notice

¹ There was no evidence that MDHHS took any adverse action concerning Petitioner's application for MA benefits. Thus, Petitioner's hearing request arguably should be dismissed for failing to establish a need for an administrative hearing remedy (see BAM 600).

dated August 27, 2024, approving Petitioner for MA beginning July 2024.² Exhibit A, pp. 23-26. The evidence established that MDHHS favorably resolved Petitioner's MA dispute. Accordingly, Petitioner's dispute over MA will be dismissed.

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute FAP eligibility. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 8-15. MDHHS testified that a Notice of Case Action dated August 24, 2024, stated that Petitioner's application was denied due to a failure to verify unearned income.³

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (May 2024) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS denied Petitioner's FAP application due to Petitioner's alleged failure to verify unearned income. MDHHS mailed Petitioner a VCL on August 8, 2024, requesting proof of unearned income by August 19, 2024. MDHHS contended it properly denied Petitioner's application when Petitioner did not verify unearned income by August 24, 2024: the date of application denial. It was not disputed that Petitioner submitted to MDHHS on August 28, 2024, a written statement denying receipt of an unearned income.

To justify an application denial based on a failure to verify, MDHHS must justify the verification request. Generally, unearned income must be verified for FAP benefits (see BEM 503). In the present case, MDHHS assumed Petitioner had unearned income because Petitioner did not report an income despite having expenses. MDHHS cannot request verification of an assumed income. Petitioner denied having any unearned income and MDHHS provided no evidence suggesting otherwise. The circumstances do not justify a request for unearned income. Given the evidence, MDHHS improperly denied Petitioner's application for FAP benefits.

² The notice also denied Medicare Savings Program (MSP) benefits to Petitioner beginning June 2024. Petitioner properly had no dispute over MSP as he was not a Medicare recipient.

³ Again, Petitioner's hearing request appears premature as MDHHS took no known adverse action as of Petitioner's hearing request date of August 8, 2024. Nevertheless, the analysis will address whether MDHHS later properly denied Petitioner's application.

MDHHS testified a second reason justified denial of Petitioner's FAP application.⁴ A Notice of Missed Interview form dated August 13, 2024, stated that Petitioner missed a scheduled interview and had until August 17, 2024, to reschedule or that Petitioner's application may be denied. Exhibit A, p. 17. MDHHS testified that Petitioner's alleged failure to be interviewed by August 17, 2024, justified denial of the application, at least for the first 30 days following the application submission date.⁵

If a FAP application is denied, and a client completes the application process on or before the 30th day after application submission, BAM 115 (May 2024) p. 24. MDHHS is to re-register the application, using the original application date. If the client complies with the application process between the 31st and 60th days, MDHHS is to reregister the application beginning the date the client completed the process. *Id.*

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.⁶ BAM 115 (January 2024) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 23. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30th day after application, if possible. *Id.* MDHHS is to not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application. *Id.*, p. 6 and 18.

MDHHS documented that it tried calling Petitioner twice on August 1, 2024, to engage Petitioner in a FAP interview. Exhibit A, p. 16. MDHHS sent Petitioner notice on August 19, 2024, for a telephone interview to be held on August 26, 2024. Exhibit A, p. 18. MDHHS documented that Petitioner went to the MDHHS office on August 26, 2024. Exhibit A, p. 18.

MDHHS contended the evidence justified FAP application denial because Petitioner was not interviewed. MDHHS failed to explain how Petitioner's application was denied due to a failure to attend a scheduled interview before an interview was scheduled. MDHHS also failed to explain why Petitioner was not interviewed for FAP benefits when he arrived to the MDHHS on the date of his scheduled interview.

Given the evidence, MDHHS improperly denied Petitioner's FAP application due to an alleged failure by Petitioner to be interviewed. As a remedy, Petitioner's application should be reinstated and processed from the original application date.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as

⁴ MDHHS testified that Petitioner's application was denied, but still eligible for subsequent processing.

⁵ MDHHS testified that Petitioner's application remains pending but may be denied for subsequent processing because of Petitioner's continued alleged failure to be interviewed.

⁶ In some circumstances, an in-person interview must be conducted. BAM 115 (January 2024) p. 1. Such circumstances are not relevant to the present case.

the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Petitioner lastly requested a hearing to dispute cash assistance based on disability.⁷ Exhibit A, pp. 3-5. Along with FAP and MA, Petitioner applied for SDA on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 8-15. A Notice of Case Action dated August 24, 2024, stated that Petitioner was denied SDA due to a failure to verify disability.⁸

For SDA applications, MDHHS is to complete a MD-VCL requesting the following required verifications: Medical-Social Questionnaire (DHS-49-F), Reimbursement Authorization (DHS-3975), Authorization to Release Protected Health Information (DHS-1555), and verification of a Social Security Administration application/appeal. BAM 815 (April 2018) p. 4. If requested mandatory forms are not returned, MDHHS cannot determine the severity of the disability and is to deny the application or place an approved program into negative action for failure to provide required verifications. *Id*

MDHHS mailed Petitioner a VCL on August 8, 2024, requesting medical documents from Petitioner by August 19, 2024. Exhibit A, pp. 20-22. MDHHS also testified it mailed Petitioner a MD-VCL on August 8, 2024 requesting proof of all required documents for an SDA application. MDHHS testified that Petitioner returned on August 16, 2024, documents from a recent hospitalization; MDHHS also testified, without rebuttal, that Petitioner did not return any of the required documents for SDA. Petitioner did not allege returning any documents to MDHHS other than those from his hospitalization.

The evidence established that MDHHS properly requested from Petitioner required documents for an SDA application. The evidence further established that Petitioner failed to return the documents to MDHHS before the SDA denial date. Thus, MDHHS properly denied Petitioner's application for SDA benefits.⁹

⁷ Petitioner's hearing request specifically cited a dispute over Family Independence Program: cash assistance based on pregnancy and/or being a caretaker to minor children. A dispute over SDA was inferred based on Petitioner's lack of minor children and claim of disability.

⁸ Yet again, Petitioner's hearing request was premature as MDHHS had not denied benefits at the time of Petitioner's hearing request. Nevertheless, the analysis will address MDHHS's actions taken following the hearing request.

⁹ MDHHS also denied Petitioner due to a failure to verify an unknown unearned income. This basis for denial will not be considered because the failure to verify disability is a sufficient basis for denial.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS favorably resolved Petitioner's dispute over MA benefits. Concerning MA benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for SDA dated [REDACTED] 2024. The actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister and reprocess Petitioner's FAP benefit application dated [REDACTED] 2024, subject to the findings that Petitioner did not fail to be interviewed, and that Petitioner did not fail to timely verify unearned income;
- (2) Issue supplements and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki

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

Tara Roland 82-17
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Interested Parties

BSC4

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MOAHR

Via-First Class Mail :

Petitioner

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