



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR



Date Mailed: October 18, 2024
MOAHR Docket No.: 24-010045
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on October 3, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] [REDACTED] 2024 application for Food Assistance Program (FAP) benefits for failure to provide verifications?

Did the Department properly determine Petitioner's Medicaid (MA) eligibility effective March 1, 2024, and properly process Petitioner's [REDACTED] [REDACTED] 2024 MA application?

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, the Department received an application for MA from Petitioner for himself.
2. On [REDACTED] [REDACTED] 2024, the Department received an application for MA and FAP from Petitioner.
3. On June 18, 2024 and June 24, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) in response to Petitioner's [REDACTED]

█ 2024 MA application. Both HCCDNs approved Petitioner for Plan First Family Planning (PFFP) MA, effective March 1, 2024.

4. On █ █ 2024, the Department received Petitioner's most recent application for FAP assistance for himself, his wife (Spouse), and their two children. (Exhibit A, pp. 8 – 15).
5. On █ █ 2024, the Department interviewed Petitioner regarding his FAP application. Petitioner reported that he, Spouse, their minor two children, Petitioner's father (Father), mother, and Petitioner's two siblings all reside at the same address. (Exhibit A, pp. 16 – 22).
6. On July 24, 2024, the Department sent Petitioner a Verification Checklist (VCL) that requested verification of Petitioner's employment income and income tax refund, and Father's self-employment income and income tax refund, be provided to the Department by August 5, 2024. (Exhibit A, pp. 24 – 25).
7. On August 1, 2024, the Department received Petitioner's bank statement for July 2024, copies of four weekly paychecks issued to Petitioner, and a W2 tax document for Father. (Exhibit A, pp. 27 – 31, 39 – 42).
8. On August 9, 2024, the Department issued Petitioner a Notice of Case Action (NOCA) that denied Petitioner's application for FAP due to failure to provide verification of income for Petitioner and self-employment income for Father. (Exhibit A, pp. 32 – 33).
9. On August 26, 2024 and August 28, 2024, the Department received additional verification documents from Petitioner. (Exhibit A, p. 39).
10. On August 26, 2024, the Department received a request for hearing from Petitioner, disputing the Department's determinations regarding Petitioner's MA and FAP benefits. (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).

Petitioner requested a hearing to dispute the Department's determinations regarding Petitioner's MA and FAP benefits.

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.

Petitioner requested a hearing to dispute the Department's denial of Petitioner's [REDACTED] [REDACTED] 2024 FAP application. The Department denied Petitioner's application for FAP due to Petitioner's failure to provide verification of income for Petitioner and self-employment income for Father.

For purposes of FAP, the relationship and interactions between people who live together determines whether each individual must be included in the group. BEM 212 (March 2024), p. 1. In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212, p. 6. The Department must then obtain verification of all non-excluded income of all members of the FAP group. BAM 105 (March 2024), pp. 17 – 18; BAM 115 (May 2024), pp. 16 – 18; BEM 500 (April 2022), p. 13; BEM 501 (January 2024), p. 10; BEM 502 (June 2024), pp. 6 – 7; see also BAM 130 (May 2024), p. 1. To obtain verification, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3.

Individuals who run their own businesses are self-employed; however, individuals who organize their businesses as S-Corporations and LLCs are not self-employed for purposes of Department programs. BEM 502, p. 1. Income an individual receives from an S-Corporation or LLC is considered wages, even if the individual is the owner, and may be verified with, among other things, a Verification of Employment (VOE) or paystubs. BEM 501, pp. 5, 11 – 12.

In this case, Petitioner most recently applied for FAP on [REDACTED] [REDACTED] 2024 for himself, Spouse, and their two children. (Exhibit A, pp. 8 – 15). When Petitioner was interviewed by the Department on July 24, 2024, he reported that his parents, including Father, and his siblings had returned to the United States from Yemen and that they all purchase and prepare food together. (Exhibit A, p. 16). He also reported that Father owns the house in which Petitioner resides and that he works for Father, at a business Father owns. (Exhibit A, pp. 19 – 20).

At the hearing, Petitioner testified that the Department misunderstood him during the interview and that the home has two apartments. Petitioner reported that he, Spouse, and their children live in one apartment, while his parents and siblings live in the other. However, there was no evidence that Petitioner's residence is an apartment, duplex, or multi-household dwelling. The Department properly relied on the information provided by Petitioner during the interview and included Petitioner's parents and siblings in Petitioner's FAP group.

Based on Petitioner's interview, the Department sent Petitioner a VCL that requested verification of Petitioner's employment income and income tax refund, and Father's self-employment income and income tax refund, be provided to the Department by August 5, 2024. (Exhibit A, pp. 24 – 25). The VCL further instructed that the Department needed verification of all earned and unearned income for the last 30 days, including employment and self-employment, and that copies of check stubs, self-employment records, or statements from the sources of income could be used. (Exhibit A, p. 25).

On August 1, 2024, the Department received a bank statement from Petitioner for July 2024, copies of four weekly paychecks issued to Petitioner by Father's business, and a W2 tax document for Father. (Exhibit A, pp. 27 – 31, 39 – 42). While the Department testified that the copies of paychecks Petitioner provided were not sufficient because they were personal checks, the evidence established that they were checks written to Petitioner from the business account of Father's business, where Petitioner reported he worked, and there was no evidence that the paychecks were not verification of Petitioner's income. (Exhibit A, pp. 23, Entry 105; pp. 41 – 42). Additionally, the Department testified that while it did receive Father's 2023 W-2, it did not receive verification of his self-employment income or other proof of his income. (Exhibit A, p. 40). While the evidence established that Father was an employee of a corporation and not self-employed (BEM 501, pp. 5, 11 – 12), the Department's VCL clearly informed Petitioner that verification of all earned and unearned income for the last 30 days was required and that Petitioner didn't provide proof of Father's income, in the form of Father's paystubs, until August 28, 2024. (Exhibit A, pp. 24 – 25, 39). Because the Department requested, and did not receive, verification of all income for the last 30 days by the August 5, 2024 due date, the Department properly denied Petitioner's [REDACTED] 2024 application for FAP. However, because the Department acknowledged it received paystubs for Father on August 28, 2024 (Exhibit A, pp. 39, 44 – 51), which were the only verifications that remained outstanding when the application was denied, within 60 days of the application date, Petitioner is entitled to subsequent processing of the FAP application with benefits pro-rated from August 28, 2024 if Petitioner is eligible. BAM 115 (May 2024), p. 24

During the hearing, the Department also testified that it noted multiple deposits into Petitioner's bank account that did not reconcile with the income information Petitioner reported to the Department and that it attempted, but was unable, to reach Petitioner to resolve the discrepancy. (Exhibit A, p. 23, Entry 105; p. 28). However, the Department testified that it had no record of an additional VCL being sent to Petitioner regarding the deposits. BAM 130, p. 3.

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.

Petitioner requested a hearing regarding his MA applications and coverage for himself and his family. Petitioner applied for MA on [REDACTED] 2024 for only himself and for MA again on [REDACTED] 2024. The Department approved Petitioner for PFFP MA on June 18, 2024, effective March 1, 2024. No HCCDN was issued related to the [REDACTED] 2024 application.

When the Department receives an application for assistance, it is to register the application within one workday for all requested programs. BAM 110 (April 2024), p. 20; BAM 115 (January 2024), p. 1. The Department must then determine eligibility and benefit amounts for all requested programs. BAM 105 (March 2024), p. 1. Once eligibility and benefit amounts have been determined, the Department must certify the client's eligibility within the required standard of promptness (SOP), which begins on the date the Department receives an application with minimum required information, and issue a notice to the client. BAM 115, pp. 1 – 2. For MA, the SOP is 45 days unless an applicant is pregnant, or disability is a factor. BAM 115, pp. 15 – 16.

Here, the Department testified that Petitioner applied for MA for himself only on [REDACTED] 2024, and the Department sent Petitioner two HCCDNs, on June 18, 2024 and June 24, 2024, that approved Petitioner for PFFP MA, effective March 1, 2024. The Department further testified that Petitioner submitted his most recent MA application to the Department on [REDACTED] 2024, but did not indicate if the application was for Petitioner only, or Petitioner and others. Additionally, there was no evidence that Petitioner's application lacked the minimum information or that the Department processed Petitioner's [REDACTED] 2024 application. Because it has been more than 45 days since Petitioner submitted his [REDACTED] 2024 application, and there was no evidence that the [REDACTED] 2024 application was just for Petitioner, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it received Petitioner's [REDACTED] 2024 MA application.

Additionally, because Petitioner is between 18 and 65 years old, the parent of a minor child who lives with him, and not a Medicare recipient, he was potentially eligible for Health Michigan Plan (HMP) or Group 2 Caregiver (G2C) MA, which are more beneficial MA coverages that may be available to him based on his circumstances. The Department did not explain whether it considered Petitioner's eligibility for MA under HMP or G2C. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to determine if Petitioner was eligible for MA under HMP or G2C.

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 [REDACTED] 2024 FAP application, but failed to satisfy its burden of showing that it acted in accordance with

Department policy when it determined Petitioner's MA eligibility from his [REDACTED] 2024 MA application or when it received Petitioner's [REDACTED] 2024 MA application.

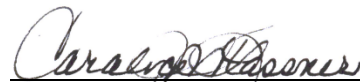
DECISION AND ORDER

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. Redetermine Petitioner's MA eligibility for March 1, 2024 ongoing;
2. If eligible, provide Petitioner with the most beneficial MA coverage he is eligible to receive for March 2024 ongoing;
3. Process Petitioner's [REDACTED] 2024 MA application for any individuals other than Petitioner seeking MA coverage;
4. If eligible, provide any individuals on the application with the most beneficial MA coverage they are each eligible to receive for April 2024 ongoing; and
5. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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 :

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Petitioner

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