



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 26, 2019
MAHS Docket No.: 18-013431
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 21, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Jennifer Cole, Lead Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's reported change and Redetermination for the Food Assistance Program (FAP)?

Did the Department properly determine Petitioner's Family Independence Program (FIP) benefit rate?

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 November 14, 2018, Petitioner submitted an application to the Department attempting to report a change in her household composition by adding her newborn to her FAP case.
2. On November 24, 2018, Petitioner submitted a Renewal of Benefits for the Medical Assistance (MA) Program, FAP, and FIP to the Department listing her newborn, herself, and two other children on the form; the renewal was due December 5, 2018.

3. Effective December 1, 2018, Petitioner's newborn child was added to the FAP case.
4. On Department 14, 2018, the Department received Petitioner's request for hearing disputing the processing of her change in household composition and Redetermination for the FAP as well as her benefit rate for the FIP.
5. On December 17, 2018, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefits had been approved, effective January 1, 2019, in the amount of \$[REDACTED] for a group size of four including herself and her three children.

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).

Family Independence Program (FIP)

The 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 (formerly known as the Department of Human Services) 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.

At the hearing, Petitioner requested to withdraw her hearing request as it relates to the FIP because her concerns had been resolved. The Department did not have any objection to the withdraw of her hearing request. Therefore, having found good cause for Petitioner's request to withdraw, Petitioner's request for hearing as it relates to the FIP is DISMISSED.

Food Assistance Program (FAP)

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. 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.

In this case, Petitioner disputes the processing of her reported change and her Redetermination. Positive actions taken by the Department are actions to approve an application or increase a benefit. BAM 220 (October 2018), p. 1. In all programs, adequate notice, or written notice sent to the client at the same time an action takes effect is required when there is an increase in benefits, approval, or denial of an

application. BAM 220, p. 3. The Department is required to act on reported changes within 10 days of becoming aware of a change. BAM 220, p. 7. Changes which result in an increase in the household's benefits amount must be effective not later than the first allotment issued ten days after the date the change was reported so long as all necessary verifications are returned by the due date. *Id.*

Petitioner testified that she first reported the birth of her son for her FAP case on November 14, 2018, with an application identified by tracking number [REDACTED]. For whatever reason, her caseworker did not deem the submission adequate and required her to submit the Redetermination or renewal of benefits. Ten days later, Petitioner submitted the renewal of benefits online, which included her newborn son. Based upon the first submission on November 14th, the Department would have been required to process the change by November 24th and add her child to the group resulting in a change likely to increase the group's benefit for December 2018. The Department has provided proof that Petitioner's newborn was added to the group, effective December 1, 2018. However, the Department did not provide proof that a Notice of Case Action was issued reflecting this change. As discussed above, policy requires a Notice of Case Action to be issued at the time the action took effect. Therefore, the Department did not act in accordance with Department policy.

Renewals and Redeterminations are the process through which the Department annually reviews program eligibility. BAM 210 (January 2018), p. 1. Since Petitioner's Redetermination was due December 5, 2018, her redetermination month was December 2018; and the Department was required to process her Redetermination and implement changes by January 1, 2019. BAM 210, p. 18. The Department provided proof that although her Redetermination was not fully processed (including the interview) until December 17, 2018, the Department processed the Redetermination and implemented any changes, effective January 1, 2019, in accordance with policy.

Since Petitioner's request for hearing raised the issue of processing and not the calculation of benefits, and because the Department did not determine Petitioner's benefit rate until after her hearing request, the issue of whether the Department properly calculated her FAP benefit rate for January 2019, ongoing, is not addressed here.

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 processed Petitioner's renewal/ redetermination but did not act in accordance with Department policy when it failed to issue a Notice of Case Action regarding the addition of Petitioner's child to her FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the processing of the renewal/redetermination and **REVERSED IN PART** with respect to the processing of her reported change.

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. Issue a Notice of Case Action to Petitioner regarding her December 2018 FAP group size and benefit rate.



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Deborah Little
MDHHS-Wayne-49-Hearings

Petitioner

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BSC4
B Sanborn
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