



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: May 21, 2019
MOAHR Docket No.: 19-004177
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 21, 2019, from Lansing, Michigan. The Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Marisha Brown, ES and Donna Rojas, FIM.

ISSUE

Did the Department properly issue FAP benefits to Petitioner for her group?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant time, Petitioner has been a FAP recipient for herself and her son.
2. In July 2018 Petitioner's son went to live with his father and Petitioner's son was removed from her case.
3. In October 2018 the father was incarcerated, and the Petitioner's son returned to her home.
4. The Department did not receive verification from the father's FAP caseworker that the FAP case closed until November 2018 with an effective date of December 2018.
5. The Department failed to add Petitioner's son back on her case until the effective date of March 1, 2019.

6. On April 19, 2019 Petitioner filed a hearing request.

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 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.

In this case, applicable policy regarding FAP group composition and verification is found at BAM 130, and BEM 212. Corresponding federal regulations are found at 7 CFR 273.12, 273.1, and 273.2.

Here, the Department acknowledges that it erred in not adding Petitioner's child back on to her case beginning December 2018 based on when the son's father's caseworker informed Petitioner's worker that the son was removed from a second FAP case. Petitioner argues in addition, that she is owed benefits back to October 2018 as the child was with her as there was no way that the child's father could have cashed any benefits as he was incarcerated.

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 failed to act in accordance with Department policy when it failed to issue FAP benefits to Petitioner for her son beginning December 2018.

As to October and November 2018, there is insufficient evidence on the record to make a determination as to whether any FAP benefits were issued during this time and if they were cashed. As such, the Department agreed to re-examine Petitioner's eligibility for her son for those 2 months and issue notice to her as to the outcome of its re-examination. Petitioner shall retain a right to an administrative hearing should she dispute the new assessment as to her son as a group member for the months of October and November 2018.

DECISION AND ORDER


Accordingly, the Department's decision is **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. Issue supplemental FAP benefits to Petitioner for her son for 3 months, covering December 2018, January 2019, and February 2019.
2. Review Petitioner's eligibility for FAP benefits for her son for the months of October and November 2018. The Department shall issue written notice to Petitioner informing her of the outcome of its review of these 2 months. Should Petitioner dispute the out of this review, Petitioner shall retain a right to an administrative hearing regarding October and November 2018, only.

IT IS SO ORDERED.

JS/nr



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

DHHS

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI
48212

Wayne 55 County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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