



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 26, 2019
MOAHR Docket No.: 19-012576
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 19, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Krista Hainey, Family Independence Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 22-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) 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. Petitioner is a recipient of FIP and FAP.
2. Petitioner had a household size of four, including himself and three children.
3. In June 2019, another child, [REDACTED] began living with Petitioner. Petitioner was not the biological father of [REDACTED] and he was not the legal guardian of the [REDACTED]. Neither of [REDACTED] biological parents were living with Petitioner, and Petitioner was taking care of her.
4. On July 9, 2019, Petitioner applied for assistance from the Department. In Petitioner's application, Petitioner represented that his household consisted of himself and three children. Petitioner omitted [REDACTED] from his application.

5. On October 1, 2019, Petitioner obtained legal guardianship of [REDACTED]
6. At the time, [REDACTED] was an active group member on her mother's FAP case.
7. On October 15, 2019, Petitioner reported to the Department that he obtained legal guardianship of [REDACTED]
8. On October 26, 2019, Petitioner obtained part-time employment at [REDACTED] Petitioner worked approximately 20 hours per week and received \$ [REDACTED] per hour.
9. On November 20, 2019, Petitioner reported to the Department that he obtained employment at [REDACTED]
10. On November 20, 2019, the Department mailed a notice of case action to Petitioner to notify him that (a) his FIP was decreased to \$32.00 per month effective November 1, 2019, based on a group size of five, (b) his FAP remained at \$587.00 per month for November, based on a group size of four, (c) his FAP increased to \$723.00 per month for December, based on a group size of five, and (d) his FAP decreased to \$445.00 per month thereafter, based on a group size of five. The changes were caused by the Department considering the addition of [REDACTED] to Petitioner's group and by the Department budgeting Petitioner's income from [REDACTED]. The Department did not include [REDACTED] in Petitioner's FAP group for November because FAP benefits had already been issued for [REDACTED] to her mother for November.
11. On November 21, 2019, Petitioner requested a hearing to dispute the Department's decision. Petitioner asserted that [REDACTED] should have been included as a group member when he reported her back in June 2019.

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

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.

In this case, Petitioner is asserting that the Department failed to properly act on a reported change in his group size because he reported that [REDACTED] was living with him in June 2019, and the Department did not add her to his FIP case until November 2019. Petitioner did not present sufficient evidence to establish that the Department did not act properly.

A FIP client has 10 days to report a change to the Department. BAM 105 (October 1, 2019), p. 11-12. When a change is reported to the Department, the Department has 15 days to act on the client's FIP case. BAM 220 (April 1, 2019), p. 7. For changes reported timely, the Department will reflect the change the first month that begins at least 10 days after the change is reported, if administratively possible. BEM 515 (October 1, 2018), p. 3. However, member additions that result in an increase will affect the month after the change occurred. *Id.*

Based on the evidence presented, Petitioner first reported that [REDACTED] was living in his household on October 15, 2019. Although Petitioner alleged that he reported this in June 2019, Petitioner did not present sufficient evidence to support his allegation. Since Petitioner first reported that [REDACTED] was living in his household on October 15, 2019, and since the Department added [REDACTED] to his FIP case effective November 1, 2019, the Department acted properly. The Department added [REDACTED] to his case to the first month that began 10 days after the change was reported in accordance with policy.

FOOD ASSISTANCE PROGRAM

The Food Assistance Program (FAP) 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 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 is asserting that the Department failed to properly act on a reported change in his group size because he reported that [REDACTED] was living with him in June 2019, and the Department did not add her to his FAP case until December 2019.

A FIP client has 10 days to report a change to the Department. BAM 105, p. 11-12. When a change is reported to the Department, the Department has 10 days to act on the client's FAP case. BAM 220, p. 7. Changes that result in a benefit increase must be effective no later than the first allotment issued 10 days after the change was reported. *Id.*

Based on the evidence presented, Petitioner first reported that [REDACTED] was living in his household on October 15, 2019. Although Petitioner alleged that he reported this in June 2019, Petitioner did not present sufficient evidence to support his allegation. Since Petitioner first reported that [REDACTED] was living in his household on October 15, 2019, the Department was required to add [REDACTED] to his case effective November 1, 2019. However, the Department did not add [REDACTED] to Petitioner's case

effective November 1, 2019, because the Department determined that [REDACTED] was active on her mother's FAP case.

The Department acted properly when it did not add [REDACTED] to Petitioner's FAP case until December 1, 2019, because [REDACTED] was an active group member on her mother's FAP case, the Department could not remove [REDACTED] from her mother's case before FAP benefits were going to be issued to her mother for her in November 2019, and [REDACTED] could not be active on more than one group at the same time. The Department could not remove [REDACTED] from her mother's case before FAP benefits were going to be issued to her mother in November 2019 because the Department had 10 days to act on the change reported on October 15, 2019, and then the removal of the group member could not be effective until 12 days after the Department took action. BAM 220.

DECISION AND ORDER

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 did act in accordance with its policies and the applicable law when it determined Petitioner's FIP and FAP eligibility.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Cindy Tomczak
401 Eighth Street
P.O. Box 1407
Benton Harbor, MI 49023

Berrien County DHHS – Via Electronic
Mail

BSC3 – Via Electronic Mail

G. Vail – Via Electronic Mail

B. Cabanaw – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]