



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: January 11, 2019
MAHS Docket No.: 18-012493
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 telephone hearing was held on January 10, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Dionere Craft, hearing facilitator, and Kathy McKeown-Orton, specialist.

ISSUE

The issue is whether MDHHS properly excluded Petitioner's grandson in determining Petitioner's Food Assistance Program (FAP) and Family Independence Program (FIP) 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. At all relevant times, Petitioner was an ongoing FAP and FIP recipient.
2. Before 9/27/18, Petitioner reported to MDHHS a household which included Petitioner, a daughter (hereinafter, "Daughter"), Daughter's son who was also Petitioner's grandchild (hereinafter, "Grandchild"), and three other persons.
3. On September 27, 2018, Petitioner reported to her specialist that Daughter left the home.

4. On an unspecified date, MDHHS determined Petitioner's FAP eligibility, effective October 2018, and FIP eligibility, effective September 2018, based on Daughter and Grandchild being out of Petitioner's home.
5. On November 11, 2018, Petitioner requested a hearing to dispute the removal of Grandchild from her FAP and FIP eligibility.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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 (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute determinations of FAP and FIP benefits. Petitioner testified that she only intends to dispute the removal of Grandchild from her FAP and FIP group.

MDHHS presented a Notice of Case Action (Exhibit A, pp. 4-8) dated September 28, 2018. The notice informed Petitioner of FAP eligibility beginning October 2018 based on a group size of four persons. The notice also informed Petitioner of FIP eligibility for September 2018 and November 2018 based on a group size of three persons.¹ Both parties agreed that the FAP and FIP determinations factored Daughter and Grandchild as an excluded member of Petitioner's FAP and FIP group. Petitioner contended that the exclusion of Grandchild was erroneous.

FIP group composition is the determination of which individuals living together are included in the FIP program group. BEM 210 (April 2017), p. 1. Living together means sharing a home where family members usually sleep except for temporary absences. *Id.*, p. 3.

¹ The notice additionally listed Petitioner's FIP eligibility for October 2018 as based on a group size of 4 persons; presumably, MDHHS included Grandchild as a group member for October 2018.

On a Hearing Summary (Exhibit A, p. 1), MDHHS initially claimed that Grandchild was properly excluded from Petitioner's FAP and FIP eligibility because Petitioner reported in a voicemail dated September 27, 2018, that Daughter and Grandchild left the home. Petitioner actually recorded her voicemail. Before the hearing, Petitioner played the recorded voicemail for MDHHS. After hearing Petitioner's recorded voicemail, MDHHS acknowledged that Petitioner reported that Daughter left the home, but not Grandchild. MDHHS admitted erroneously assuming that Grandchild left with Daughter's departure from Petitioner's household.

Given the evidence, it is found that Petitioner did not report that Grandchild left Petitioner's home. Thus, MDHHS improperly excluded Grandchild in determining Petitioner's FAP and FIP eligibility. To correct their error, MDHHS will be ordered to recalculate Petitioner's FAP and FIP eligibility from the benefit month affected by MDHHS' erroneous assumption concerning Grandchild.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FIP and FAP eligibility effective September 2018 and October 2018, respectively. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FIP eligibility, effective September 2018, subject to the finding that Petitioner did not report that Grandchild left her household;
- (2) Reprocess Petitioner's FAP eligibility, effective October 2018, subject to the finding that Petitioner did not report that Grandchild left her household; and
- (3) Initiate a supplement of any benefits improperly not issued to Petitioner.

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

CG/



Christian Gardocki

Administrative Law Judge

for Farah Hanley, Acting 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

Demitra Owens
MDHHS-Wayne-55-Hearings

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

BSC4
B Sanborn
B Cabanaw
M Holden
D Sweeney
C Gardocki
MAHS