



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: March 19, 2019
MAHS Docket No.: 19-000956
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 18, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Cathy Burr, Assistance Payments Supervisor, and Latrice Bailey, Assistance Payments Worker.

ISSUE

Did the Department properly process a change to Petitioner's Food Assistance (FAP) benefit group composition?

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 was an ongoing FAP recipient.
2. Petitioner was the only member of her FAP group (Exhibit A).
3. On December 12, 2018, Petitioner submitted a change report stating that her great-nephew was now living in her household (Exhibit B).
4. On January 17, 2019, Petitioner submitted Letters of Guardianship (Exhibit F).
5. On January 24, 2019, the Department received amended Letters of Guardianship (Exhibit H).

6. On January 24, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FAP benefit amount was increasing, effective March 1, 2019, ongoing, as a result of the addition of her great-nephew to her FAP benefit case.
7. On January 29, 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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, Petitioner submitted a hearing request disputing the Department's decision to add her great-nephew to her FAP benefit case as of March 1, 2019. Specifically, Petitioner argued that the Department improperly processed her FAP benefits by delaying the addition of her great-nephew to her FAP benefit case.

Clients must report changes in circumstances that potentially affect eligibility of benefit amount. BAM 105 (January 2018), p. 12. Changes to group size must be reported within 10 days of the date that the client is aware of the change. BAM 105, p. 12. The Department must act on a change reported by means other than tape match within 10 days of becoming aware of the change. BAM 220 (October 2018), p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 7. If verification is returned late, the increase must affect the month after verification is returned. BAM 22, p. 7. When primary caretaker status is questionable or disputed, the Department will base the determination on evidence provided by the caretakers. BEM 212 (January 2017), p. 12. Suggested verifications include: (i) the most recent court order that addresses custody and/or visitation; (ii) school records; (iii) child care records; and (iv) medical providers' records. BEM 212, pp. 12-13.

The Department testified that when Petitioner reported that her great-nephew was living with her on December 12, 2018, he was active on his mother's FAP benefit case. On

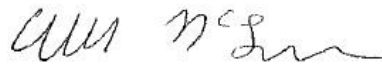
December 14, 2018, the Department advised Petitioner that verification would be needed that she was now the child's legal custodian, as he was active on another FAP benefit case (Exhibit M). The Department testified that Petitioner submitted a copy of her Letters of Guardianship showing she was now the legal custodian of her great-nephew on January 17, 2019 (Exhibit F). However, the date on the order was listed as January 14, 2018. The Department contacted an individual with [REDACTED] County Probate Court, and an amended order with a date of January 14, 2019 was received on January 24, 2019. On January 24, 2019, Petitioner's great-nephew was added to her FAP benefit case. Additionally, the Department testified that as of January 24, 2019, Petitioner and Petitioner's great-nephew's mother had already received their February 2019 FAP allotment as a result of the federal government shutdown (Exhibit L). Therefore, Petitioner's FAP benefits increased due to the addition of her great-nephew, effective March 1, 2019, ongoing.

The Department did not receive the necessary verification of the addition of Petitioner's great-nephew to her household until January 24, 2019. February 2019's FAP benefit allotments had already been issued by that point. Therefore, the first allotment issued 10 days after the date the change was reported and verified was March 2019. Thus, the Department acted in accordance with policy when it processed Petitioner's reported change in group size.

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 acted in accordance with Department policy when it processed Petitioner's reported change of her FAP benefit group composition. Accordingly, the Department's decision is **AFFIRMED**.

EM/jaf



Ellen McLemore

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

Sarina Baber
MDHHS-Washtenaw-Hearings

Petitioner

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