



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: April 16, 2019
MAHS Docket No.: 19-002607
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 April 15, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Creshonda Hunter, Eligibility Specialist and Timika Harris, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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. On March 8, 2019, Petitioner submitted a request for hearing related to her FAP and Medicare Savings Program (MSP) benefit cases.

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).

FAP

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 request for hearing, in part, disputing the amount of her FAP benefits. The Department presented no evidence related to Petitioner's FAP benefit case. It is unclear as to when the Department last issued a decision related to Petitioner's FAP benefits or how her FAP benefit amount was calculated.

A request for a hearing must be submitted within 90 days from the date of the written notice of case action. BAM 600 (April 2017), p. 6. However, an exception applies to FAP Cases and a request for a hearing disputing the current level of benefits may be made any time within the benefit period. BAM 600, p. 7. "Current" is interpreted to refer to the client's eligibility as of the hearing request month.

Petitioner may dispute her current FAP benefit level. Petitioner's hearing request was submitted in March 2019. The Department failed to establish that it properly determined Petitioner's FAP benefit amount as of March 1, 2019.

MSP

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (April 2017), p. 2. Moreover, Department policy provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, p. 6.

In this case, the Department sent Petitioner a Health Care Coverage Determination Notice on July 20, 2018, informing her that she was eligible for MSP benefits as of

July 1, 2018, ongoing. Petitioner did not submit a request for hearing related to her MSP benefit case until March 8, 2019, which is beyond the 90-day time limit. Petitioner's hearing request was not timely filed within 90 days of the Health Care Coverage Determination Notice and is, therefore, **DISMISSED** for lack of jurisdiction.

DECISION AND ORDER

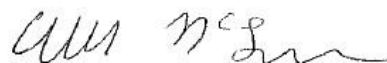
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit amount.

Accordingly, the Department's decision is **REVERSED**.

Petitioner's Request for Hearing related to her MSP benefit case is **DISMISSED**.

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. Redetermine Petitioner's FAP eligibility as of March 1, 2019, ongoing;
2. If Petitioner is entitled to additional FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.



EM/

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

Renee Swiercz
MDHHS-Oakland-IV-Hearings

Petitioner

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M Holden
D Sweeney
D Smith
EQAD