



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 3, 2020
MOAHR Docket No.: 20-004220
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 July 29, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Dawn Burnett, Assistance Payments Supervisor, and Rashawn Carter, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2020 application for Food Assistance Program (FAP) benefits?

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 times relevant to the instant matter, Petitioner lived in a household that included herself and her minor child.
2. On [REDACTED], 2020, Petitioner submitted to the Department an application for FAP benefits for her and her minor child.
3. On April 30, 2020, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP application was denied. The document explained that the application was denied because the Department's records showed that Petitioner and her minor child were already on an active FAP benefits case.

4. During the hearing, the Department explained that the father of Petitioner's minor child had successfully applied for FAP benefits for the supposed household of three some time before [REDACTED] 2020. However, there is no evidence to suggest that he actually lived with Petitioner or their minor child at any point during the relevant time period.
5. On [REDACTED] 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of her [REDACTED], 2020 FAP application.

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.

Petitioner contested the Department's denial of her [REDACTED], 2020 application for FAP benefits for herself and her minor child. At all times relevant to the instant matter, Petitioner lived in a household that included herself and her child. The reason given for the denial was that the Department's records showed that it had already issued FAP benefits for the month of April 2020 on behalf of Petitioner and Petitioner's child on another case, which was that of the father of Petitioner's child. Petitioner was not aware that the Department was issuing benefits on behalf of Petitioner and her child, and was unsure how the case even got opened as the father of her child had not lived with her at any recent time. Petitioner did not in any way benefit from the Department's issuance of FAP benefits on her behalf.

Household composition is a relevant eligibility-related factor for determining FAP eligibility. BEM 212 (July 2019), p. 1. A FAP group includes all individuals who live together and prepare food together. BEM 212, pp. 1-2. When a child spends time with multiple caretakers who do not live together, the Department must determine a primary caretaker. BEM 212, p. 3. The child is always placed in the FAP group of the primary caretaker. BEM 212, p. 3. If primary caretaker status is questionable or disputed, verification is needed, and both caretakers must be allowed to provide evidence supporting his or her claim. BEM 212, p. 4. A re-evaluation regarding primary caretaker status is needed whenever a second caretaker applies for assistance for the same child. BEM 212, p. 5.

Petitioner's application for FAP benefits for herself and her child included an assertion that they were the only members of her household and that she was their primary caretaker. Rather than denying Petitioner's application because the children and Petitioner were already active on another case, the Department had an obligation to follow Department policy regarding disputes concerning primary caretaker status and household composition. The Department failed to follow the process, depriving Petitioner of the opportunity to receive a substantive determination of her actual household's eligibility for FAP benefits. An applicant cannot be denied benefits solely because someone else is mistakenly or fraudulently receiving benefits on that applicant's behalf. That is exactly the scenario that Petitioner's application raised. In such instances, the Department must follow policy regarding resolving such disputes.

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 not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2020 application for FAP benefits.

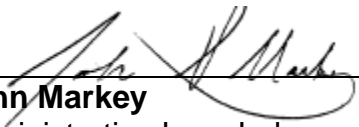
DECISION AND ORDER

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. Reprocess Petitioner's application for FAP benefits for herself and her minor child;
2. Follow Department policy regarding resolving disputes concerning household composition;
3. Determine Petitioner's eligibility for FAP benefits from the date of application;
4. If Petitioner is eligible for additional benefits, ensure that a prompt supplement is issued; and
5. Notify Petitioner in writing of its decisions.

JM/tm



John Markey
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

Dora Allen
14061 Lappin
Detroit, MI 48205

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County