



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: November 10, 2020
MOAHR Docket No.: 20-005922
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 3-way telephone hearing was held on November 4, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Janine Jenerette, specialist.

ISSUES

The first issue is whether MDHHS resolved Petitioner's dispute concerning an unprocessed application requesting Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS properly denied Petitioner's application requesting Family Independence Program (FIP) benefits.

The third issue is whether there is administrative jurisdiction to change Petitioner's MDHHS specialist.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2020, Petitioner applied for FAP and FIP benefits. Petitioner reported a household that included a minor child who attended school.

2. On [REDACTED] 2020, Petitioner requested a hearing to dispute the denials of FAP and FIP benefits. Petitioner also requested a hearing to request a different MDHHS specialist.
3. As of September 21, 2020, MDHHS had not sent Petitioner written notice of a FIP denial.
4. On an unspecified date on or after September 21, 2020, MDHHS approved Petitioner's request for FAP benefits dated [REDACTED] 2020.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS 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).

On [REDACTED] 2020, Petitioner requested a hearing to dispute FAP and FIP benefits. Exhibit A, pp. 4-5. The application closest in time before Petitioner's hearing request date was dated [REDACTED], 2020. Petitioner testified that he applied multiple times over the summer and was denied; Petitioner also testified that he wanted to dispute the denial of each of his applications from before [REDACTED] 2020. Petitioner's written hearing request complained of a denial of FAP and FIP benefits, but it did not reference a dispute of multiple application denials. Petitioner's hearing request also did not specify the application dates in dispute. Given Petitioner's hearing request, only a dispute of the most recently denied FAP or FIP application could be inferred. MDHHS is entitled to notice of Petitioner's dispute so that it may prepare accordingly for a hearing. Allowing Petitioner to dispute application denials from before [REDACTED], 2020 would violate MDHHS's due process. Accordingly, Petitioner's hearing request will be interpreted as a dispute only over his application dated [REDACTED], 2020.

Concerning FAP benefits, Petitioner's hearing request stated that his specialist told him that he would receive benefits by August 25, 2020. As of Petitioner's hearing request submission, MDHHS had not issued FAP benefits to Petitioner nor sent Petitioner notice that his application was denied. After Petitioner requested a hearing, it was not disputed that MDHHS processed Petitioner's FAP eligibility, and that he was approved for FAP benefits from his application date of [REDACTED] 2020. Thus, Petitioner's dispute was favorably resolved. Concerning Petitioner's unprocessed FAP application, Petitioner's hearing request will be dismissed.

Petitioner testified that he also wanted to dispute an inexplicable recent decrease in his FAP eligibility for November 2020. MDHHS reduced Petitioner's FAP eligibility

beginning November 2020. MDHHS testimony acknowledged that notice of the reduction was not sent to Petitioner.¹ During the hearing, it could not be determined when MDHHS reduced Petitioner's FAP eligibility for November 2020, but it presumably occurred after a hearing was requested. If MDHHS had not processed Petitioner's FAP eligibility as of the hearing request date, it could not have reduced Petitioner's FAP eligibility for November 2020. Further, Petitioner did not complain of a FAP reduction in his hearing request. Due to the reduction of FAP benefits not being a ripe dispute as of Petitioner's hearing request, it cannot be addressed in this decision. As discussed during the hearing, a reduction in FAP benefits without appropriate notice is a legitimate complaint that Petitioner is encouraged to pursue through another hearing request.

The Family Independence Program 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. MDHHS 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 BAM, BEM, and RFT.

Concerning the denial of FIP benefits, MDHHS testified that it denied Petitioner due to his alleged failure to verify school attendance for a child. MDHHS's testimony concerning the reason for denial was consistent with an internal document stating that Petitioner's application was denied due to a failure to verify information. Exhibit A, p. 11. The substance of the denial need not be addressed because of yet another failure by MDHHS to issue written notice.

For all programs, upon certification of eligibility results, MDHHS must automatically notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (April 2019) p. 2. Notices must include the action taken by MDHHS, the reason for the action, the specific manual item which cites the legal basis for action, an explanation of the right to request a hearing, and the conditions under which benefits may be continued if a hearing is request. *Id.*, pp. 2-3.

MDHHS testimony acknowledged that written notice of FIP denial was not sent to Respondent. An application denial without proper written notice is a reversible action. As a remedy, Petitioner is entitled to proper written notice and a reprocessing of his application.

Petitioner also requested a hearing because he "would like a new worker." Exhibit A, p. 5. The remedy Petitioner seeks must be evaluated against the actions for which a hearing may be granted.

A hearing can be granted for actions affecting benefits or services. Administrative hearing jurisdiction is limited to the following:

- Denial of an application or supplemental payment.
- Reduction in benefits or services.

¹ Petitioner testified that he learned of the reduction without written notice by checking the MDHHS app.

- Suspension or termination of benefits or services.
- Restrictions under which benefits or services are provided.
- Delays in action beyond the standards of promptness.
- A denial of expedited service or the current level of benefits (FAP and CDC only)

BAM 600 (October 2018), p. 5.

Notably, a desire for a new specialist is not among the reasons for which a hearing may be granted. In other words, there is no administrative hearing jurisdiction or remedy to address a request for a new specialist. As stated during the hearing, any reassignment of specialist is within the discretion of MDHHS. Concerning getting a new specialist, Petitioner's hearing request must be dismissed.

DECISION AND ORDER


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS resolved Petitioner's dispute concerning an unprocessed FAP application dated [REDACTED], 2020. Also, there is no administrative jurisdiction to assign Petitioner a different specialist. Concerning Petitioner's FAP eligibility and request for a new specialist, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's FIP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's FIP application dated [REDACTED], 2020;
- (2) Reprocess Petitioner's FIP application subject to the finding that MDHHS failed to issue proper notice of denial.

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

CG/tm



Christian Gardocki
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

Via Email:

MDHHS-Wayne-15-Hearings
M. Holden
D. Sweeney
B. Sanborn
M. Schoch
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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