



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 15, 2021
MOAHR Docket No.: 21-003717
Agency No.: ██████████
Petitioner: ██████████

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 hearing was held via telephone conference line on September 7, 2021. Petitioner did not participate. ██████████, Petitioner's spouse (hereinafter, "Spouse"), appeared as Petitioner's authorized hearing representative. The Michigan Department of Health and Human Services (MDHHS) was represented by Alinda Miller, specialist, and Cherro West, supervisor. Danielle Nuccio, administrative law judge with the Michigan Office of Administrative Hearings and Rules, observed the hearing.

ISSUE

The issue is whether MDHHS properly processed Petitioner's Food Assistance Program (FAP) eligibility following a reported change in group members.

FINDINGS OF FACT

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

1. As of March 2021, Petitioner was an ongoing recipient of FAP benefits as a 1-person group.
2. On March 31, 2021, Petitioner reported to MDHHS that he resided with Spouse.
3. On May 21, 2021, MDHHS processed Petitioner's reported change and approved Petitioner for FAP benefits beginning July 2021 based on a 2-person group.
4. From April 2021 through June 2021, MDHHS issued to Petitioner less than ██████████ in FAP benefits.

5. On [REDACTED], 2021, Petitioner requested a hearing to dispute FAP eligibility related to MDHHS's processing of the reported increase in group members.

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).

Petitioner requested a hearing to dispute the processing of a change in group members.¹ Exhibit A, p. 3. On March 31, 2021, Petitioner submitted to MDHHS a Change Report stating that Spouse resided in his household since March 27, 2021. Exhibit A, pp. 11-12. MDHHS processed Petitioner's reported change on May 21, 2021. A corresponding Notice of Case Action stated that Petitioner's FAP eligibility decreased to \$[REDACTED] beginning July 2021 based on a group that included Spouse. Spouse contended that MDHHS should have processed the change in group members to affect Petitioner's FAP eligibility before July 2021.

A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 550 (October 2020), p. 4. For FAP benefits, MDHHS must act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2021), p. 7.

Petitioner's reported group member change happened in the midst of the COVID-19 pandemic. During the pandemic, MDHHS adopted temporary policies that generally benefit clients procedurally and in benefit amounts. One such policy is issuing the maximum FAP benefit amount for a group size, regardless of the client's actual eligibility.²

¹ Four additional pages of Petitioner's hearing request were too illegible to read, but Spouse had the opportunity to explain Petitioner's position at the hearing. Exhibit A, pp. 4-7.

² MDHHS issued memorandum ESA 2020-15 on March 26, 2020, under the Economic Stability Administration, which states that FAP recipients are to receive a supplement to increase their monthly FAP allotment to the maximum FAP issuance for their group size. The policy originally lasted two months; however, it has been extended through the date of hearing.

Petitioner's reported increase in group members cause a decrease in FAP eligibility beginning July 2021.³ Without the temporary COVID-19 pandemic policy, MDHHS's tardy processing works favorably for Petitioner by delaying a reduction in benefits until July 2021. With the COVID-19 policy in place, the delay resulted in fewer benefits issued to Petitioner because, regardless of eligibility, MDHHS would have supplemented the monthly FAP benefit to the maximum FAP issuance for a 2-person group. The maximum FAP issuance for a 2-person group is \$430. RFT 260 (May 2021) p. 1. Instead, Petitioner received some unspecified lesser amount of FAP benefits.⁴

MDHHS policy ensures that clients do not receive fewer FAP benefits because of untimely processed group member changes. In the present case, MDHHS failed to timely process Petitioner's reported change by taking approximately 51 days to process. As a result, Petitioner received less than the maximum FAP issuance of [REDACTED] from April to June 2021. If MDHHS processed Petitioner's reported change within 10 days, Petitioner's FAP group would have been updated to two persons beginning April 2021, if Spouse did not come from another FAP group. Thus, MDHHS issued fewer benefits to Petitioner than would have been issued because of an untimely processed change in group members.

It is found that MDHHS erred by not increasing Petitioner's FAP group to two and, issuing FAP benefits based on a timely processed change. As a remedy, Petitioner is entitled to a supplement of FAP benefits to reach the maximum FAP issuance for the 2-person group.⁵

³ MDHHS also presented a FAP budget indicating FAP eligibility of [REDACTED] per month. Exhibit A, pp. 17-18. Whether the updated issuance was \$[REDACTED] or [REDACTED] is irrelevant. Petitioner was disputing the effective date of the change in his FAP group size and not the amount of FAP benefits.

⁴ Although the amount of FAP benefits Petitioner received in April 2021 through June 2021 was unclear, it was not disputed to be less than [REDACTED] monthly.

⁵ Petitioner may additionally be entitled to a [REDACTED] supplement for June 2021 under ESA Memo 2021-22. However, MDHHS testimony indicated that a [REDACTED] issuance was already issued for June 2021, though it was not certain whether the [REDACTED] was issued under ESA Memo 2021-22 or as a supplement to reach the group size maximum.


DECISION AND ORDER

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

- (1) Reprocess Petitioner's reported addition of Spouse to the household on March 31, 2021, subject to the finding that the change resulted in a benefit increase; and
- (2) Issue a supplement of benefits and notice, if any, in accordance with policy.

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

CG/tm



Christian Gardocki
Administrative Law Judge

