



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], MI [REDACTED]

Date Mailed: April 26, 2022
MOAHR Docket No.: 22-001231
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 14, 2022, from Lansing, Michigan. Petitioner [REDACTED] appeared and testified. Petitioner was represented by Authorized Hearings Representative [REDACTED]. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator.

Department's Exhibits pages 10-18 were admitted as evidence on the record.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance program (FAP) and Family Independence Program (FIP) 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. On [REDACTED], 2021, Petitioner applied for Family Independence Program (FIP) benefits.
2. The application was not properly processed.
3. On January 7, 2022, the Department denied Petitioner's application for FIP benefits.
4. FIP was denied for December 2021 forward because the Department determined that Petitioner was over the income limit.

5. On January 7, 2022, the Department sent Petitioner a notice of Case Action that denied Petitioner FIP for September 1, 2021, and approved Petitioner's application for FAP for a household of three persons in the amount of \$200.00 from December 1, 2021-December 31, 2021, \$298 per month for January 1, 2022-January 31, 2022; and \$281 per month for February 1, 2022-May 31, 2022.
6. On March 7, 2022, Petitioner's Representative filed a Request for Hearing to contest the Department's negative action.
7. On March 28, 2022, the Michigan Office of Administrative Hearings and Rules received a copy of the hearing summary and attached documents.
8. On March 28, 2022, the Department acknowledged its error and paid Petitioner FIP benefits for the months of October and November 2021.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The Family Independence Program (FIP) 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. The Department (formerly known as the Department of Human Services) 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.

In this case, Petitioner was determined entitled to receive \$377.00 in FIP benefits from October 1, 2021-October 31, 2021, and \$333.00 from November 1, 2021-November 30, 2021. Petitioner was not eligible to receive FIP from December 1, 2021-ongoing.

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, the Department has determined that Petitioner has continuously received the maximum FAP benefit allotment each month for a household of three persons (\$658). She is entitled to receive the maximum amount of FAP benefits (\$459) from May 1, 2022 – May 31, 2022, for a two-person household since one person has left her household.

In this case, not only did the Department fail to process the application within the Standard of promptness, the Department also did not offer sufficient proofs to determine that Petitioner has received all the FIP benefits she was entitled to. The Department did not address whether Petitioner was entitled to FIP benefits for the month of September 2021. There were no budgets provide for FIP or FAP benefit eligibility contained in the proofs.

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 and failed to establish by a preponderance of the evidence on the record that it was acting in accordance with Department policy.


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. Reinstate Petitioner's application for FIP and FAP as of the [REDACTED], 2021, application date;
2. Redetermine Petitioner's eligibility for FIP and FAP from application date forward;
3. Notify Petitioner of her eligibility for FIP and FAP from August 16, 2021, forward;
4. Notify Petitioner of the benefits she has received; and
5. If Petitioner is otherwise eligible, pay to Petitioner any outstanding benefits to which she is entitled.

LL/ml


Landis Lain
Administrative Law Judge

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

Electronic Mail Recipients:

MDHHS-Ingham-Hearings
BSC2
M. Holden
D. Sweeney
G. Vail
B. Cabanaw

First Class Mail Recipient, AHR:

[REDACTED], MI [REDACTED]

First Class Mail Recipient, Petitioner:

[REDACTED], MI [REDACTED]