



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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██████████, MI ██████████

Date Mailed: May 16, 2022
MOAHR Docket No.: 22-001619
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 11, 2022 via teleconference. Petitioner appeared and represented herself. Francine James-Franklin, Caseworker, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly process Petitioner's 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. On ██████████, 2021, Petitioner filed an application for FAP benefits on behalf of herself and her minor child (Exhibit A, pp. 7-12). Petitioner reported that she was homeless and provided a mailing address in ██████████ Michigan (Exhibit A, p. 7). The mailing address belonged to her mother, ██████████ (Mother) (Exhibit A, p. 13).
2. MDHHS did not register the application, and thus, it was not processed in a timely manner (Exhibit A, p. 1). MDHHS reviewed the case and determined that Petitioner was living with Mother and added Petitioner to Mother's FAP case (Exhibit A, pp. 1, 14).
3. On ██████████, 2022, Petitioner filed a Request for Hearing to dispute the processing of her FAP application (Exhibit A, pp. 3-4).

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. MDHHS 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 applied for FAP on behalf of herself and her minor child (Exhibit A, pp. 7-12). MDHHS acknowledged that it did not properly register and process her FAP Application (Exhibit A, p. 1). Upon review of the case, MDHHS determined that Petitioner was a mandatory group member of Mother's FAP group and added her to Mother's FAP case. Petitioner disputed that she lived with Mother and stated that she was homeless at that time and merely used Mother's address as a mailing address.

An application for program benefits must be registered in Bridges, MDHHS's internal eligibility and case management tool, unless the client is already active for that program. BAM 110 (January 2020), p. 8. If there is no previous record in Bridges, the system assigns an individual identification number and an application number to the case. *Id.* All applications, redeterminations, referrals, initial asset assessments, member adds and program adds must be registered on Bridges within one workday. BAM 110, p. 20. After registering the application, MDHHS is required to process the application as quickly as possible and within the time period dictated by the program's standard of promptness. BAM 115 (July 2021), pp. 16-17. After processing the application according to department policy, MDHHS must send the applicant notice of its eligibility determination by generating the appropriate notice of case action. BAM 115, pp. 25-26; BAM 220 (November 2021), p. 2.

Here, MDHHS did not provide any evidence that Petitioner was already active in Bridges or that she was already receiving FAP benefits on Mother's case. At the hearing, Petitioner testified that she was not part of Mother's FAP case when she filed the application. Therefore, MDHHS erred by not registering Petitioner's FAP application and assigning an individual identification number and application number to the case. No evidence was presented that MDHHS processed Petitioner's application or sent her a notice of case action indicating the eligibility decision. Based on the record, instead of processing Petitioner's application and sending her the appropriate notice of case action, MDHHS treated her application as a request to add an adult member to Mother's FAP case.

To determine FAP group composition, MDHHS considers (i) who lives together; (ii) the relationships of the people who live together; (iii) whether the people living together prepare food together; and (iv) whether the person resides in a special living situation which requires the consideration of other factors. BEM 212 (October 2020), p. 1. Living together means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. *Id.*, p. 3. Persons who share only access areas, such as an entrance or hallway, or non-living areas, such as a laundry room, are not considered to be living together. *Id.*

MDHHS must also determine mandatory and non-mandatory group members. *Id.* Parents and their children under age 22 who live together must be in the same group regardless of whether the children have their own spouse or a child who lives in the group. *Id.* Adult children are potentially eligible for their own FAP case the month after turning 22. *Id.*

The record shows that MDHHS determined that Petitioner and Mother were mandatory group members because Petitioner was living with Mother and was under the age of 22 when she applied for FAP. Petitioner acknowledged that she was under the age of 22 when she submitted the FAP application; however, Petitioner denied that she was living with Mother. Petitioner credibly testified that she was homeless during this time and was sleeping at friends' houses until she could find her own place. MDHHS did not provide any evidence that would contradict Petitioner's testimony.

Department policy defines a 'homeless individual' as one who lacks a fixed and regular nighttime dwelling or whose temporary nighttime dwelling is one of the following: a homeless shelter; a halfway house or similar facility to accommodate persons released from institutions; home of another person; or place not designated to be a dwelling, such as a park, campsite or vehicle. BEM 220 (July 2020). p. 2. When an individual is homeless, MDHHS is required to use the local office address or another location agreeable to the individual as the mailing address in Bridges. *Id.*

Based on Petitioner's testimony, she met the definition of a homeless individual when she filed the FAP application because she was living in the home of another person and did not have a fixed nighttime dwelling. Petitioner provided Mother's address as a mailing address only. MDHHS did not introduce any other evidence to show that Petitioner was living with Mother. Therefore, MDHHS erred when it processed Petitioner's FAP application as a member add and did not determine her eligibility for FAP as a separate household.

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 MDHHS did not act in accordance with Department policy when processing Petitioner's FAP application.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reregister the [REDACTED], 2021 FAP application;
2. Reprocess the application and recalculate the FAP budget from November 18, 2021 ongoing;
3. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from November 18, 2021 ongoing;
4. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
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

Email Recipients:

MDHHS-Wayne-57-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

First-Class Mail Recipient:

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