



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: May 16, 2022
MOAHR Docket No.: 22-001733
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 May 12, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Marjorie Scott, Eligibility Specialist.

At the hearing, Petitioner waived her right to receiving and reviewing the 17-page hearing packet prior to the hearing and the packet was entered into evidence as MDHHS's Exhibit A. MDHHS testified they will re-send Petitioner a hearing packet for her records.

ISSUES

1. Did MDHHS properly add Petitioner to her Food Assistance Program (FAP) group effective May 1, 2022?
2. Did MDHHS properly calculate Petitioner's household budget to determine her monthly FAP amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP benefits for herself and her three minor children. There are no senior (over 60 years old), disabled or disabled veteran (S/D/V) members in the household.

2. Petitioner was disqualified from her FAP group due to non-cooperation with child support requirements.
3. As of April 7, 2022, Petitioner was deemed compliant with the Office of Child Support (Exhibit A, p. 17).
4. Effective May 1, 2022, Petitioner was added to her FAP group. Petitioner is approved for \$375.00 per month in FAP benefits for a group size of four (Exhibit A, pp. 8-13).
5. As of May 2022, Petitioner reports that she is on medical leave from employment. MDHHS received notice of Petitioner's medical leave on March 15, 2022 (Exhibit C, p. 1).
6. As of May 2022, Petitioner receives [REDACTED] per month in child support for one child (Exhibit D, pp. 1-2).
7. As of May 2022, Petitioner reported to MDHHS no child support or dependent care expenses.
8. As of May 2022, Petitioner reported to MDHHS monthly housing expenses of \$91.67 and a responsibility for paying utilities.
9. On April 12, 2022, Petitioner timely requested a hearing to dispute the effective date for her group size to increase and to dispute the monthly amount of FAP benefits she is eligible to receive (Exhibit A, pp. 3-6).

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.

In this case, Petitioner requested a hearing regarding the effective date that she was added back to her FAP group. Petitioner was disqualified from her FAP group as of October 2021 due to non-cooperation with the Office of Child Support. Petitioner acknowledges that she was in non-cooperation status and does not dispute the

disqualification. Effective April 7, 2022, Petitioner was deemed to be in compliance with the Office of Child Support and eligible to be included in her FAP group once again. Petitioner argues that since she was deemed compliant in April then she should have received FAP benefits for a group size of four in April. Failure to cooperate with the Office of Child Support, without good cause, results in disqualification from FAP of the individual who failed to cooperate. The individual and her needs are removed from FAP eligibility consideration for a minimum of one month. The remaining eligible group members will receive FAP benefits. The disqualified member is returned to the eligible group the month after cooperation or after serving the one-month disqualification, whichever is later. BEM 255 (January 2020), p. 14. Here, Petitioner was deemed compliant with the Office of Child Support on April 7, 2022. MDHHS then added Petitioner back to her FAP group effective May 1, 2022. MDHHS presented evidence that Petitioner did receive FAP benefits for a group size of four in May 2022 (see Exhibit B, p. 1). Since Petitioner was added back to her FAP group within one month of compliance with the Office of Child Support, MDHHS acted in accordance with policy in updating Petitioner's FAP group size.

Additionally, Petitioner disputes the calculation of her household budget in determining her FAP monthly amount. Petitioner was approved to receive \$375.00 per month in FAP benefits for a group size of four. Due to the Covid-19 pandemic, MDHHS has issued the maximum FAP issuance for a client's group size since March 2020. The extra benefits are a result of a temporary policy during the pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is still appropriate.

BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. For groups without a S/D/V member, MDHHS considers the following expenses: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, and a capped excess shelter expense. BEM 554 (January 2022) p. 1. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner is currently on medical leave from her employment and reports no other earned income in the household. MDHHS received documentation that Petitioner is on medical leave on March 15, 2022. MDHHS testified that since the documentation was from Petitioner's doctor, rather than her employer, they deemed it insufficient proof that Petitioner was not working. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. Before determining eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130, p. 9. Here, MDHHS did not inform Petitioner that the documentation directly from her medical provider was insufficient proof that she was on medical leave and currently not receiving earned income. Nor did MDHHS provide a valid reason as to why the documentation from Petitioner's doctor was insufficient. MDHHS should have given Petitioner the opportunity to provide additional verification, if necessary, that her income has changed. MDHHS then could update Petitioner's

household budget to accurately reflect that there is no earned income during Petitioner's medical leave period. Therefore, MDHHS failed to act in accordance with policy in calculating Petitioner's earned income in determining her household income and monthly FAP amount of benefits.

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 MDHHS acted in accordance with policy when it updated Petitioner's FAP group size and did not act in accordance with Department policy when it calculated Petitioner's earned income to determine her monthly FAP amount.

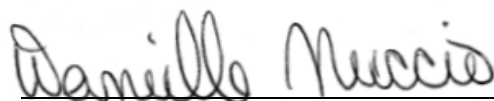
DECISION AND ORDER

Accordingly, MDHHS' 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. Recalculate Petitioner's FAP budget for May 1, 2022 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. If Petitioner is eligible for supplements, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from May 1, 2022 ongoing;
3. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio

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-17-hearings
D. Sweeney
M. Holden
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BSC4

First-Class Mail Recipient:

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