



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 7, 2022
MOAHR Docket No.: 22-003317
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 September 1, 2022 at 9:50 a.m., via teleconference. Petitioner appeared and represented herself. Ivana Lograsso, Eligibility Specialist, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?

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.
2. On May 2, 2022, Petitioner submitted a Mid-Certification Contact Notice (Exhibit A, pp. 3, 11-13). Petitioner reported two household members, including herself and her son (Exhibit A, p. 12). Petitioner reported an increase in household income (Exhibit A, p. 12).
3. On ██████████ 2022, Petitioner submitted a new FAP application (Exhibit A, pp. 14-20). Petitioner reported two household members, including herself and her son (Exhibit A, p. 15). Petitioner also named her son as her authorized representative (Exhibit A, p. 14). Petitioner stated that her son bought and prepared food

separately from the rest of household (Exhibit A, p. 16). Regarding income, Petitioner reported receiving RSDI and spousal support (Exhibit A, p. 18).

4. On July 6, 2022, MDHHS processed the May 2022 mid-certification review and reviewed the June 23, 2022 FAP application (Exhibit A, p. 3). On the Mid-Certification Contact Notice, Petitioner reported that she started receiving Retirement, Survivors, Disability Insurance (RSDI) income in January 2022 (Exhibit A, p. 3). On the June 23, 2022 FAP application, Petitioner reported receiving spousal support (Exhibit A, p. 18).
5. On July 6, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of spousal support income (Exhibit A, p. 26).
6. On July 27, 2022, MDHHS received a letter from Petitioner, which stated that she received RSDI and not spousal support (Exhibit A, p. 27). The spousal support was reported in error.
7. On August 1, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that she was approved for FAP benefits for a household of two, at a benefit rate of \$20 per month, effective June 1, 2022 (Exhibit A, p. 28). Petitioner's son was included in the FAP group (Exhibit A, p. 28).
8. On August 9, 2022, Petitioner filed a Request for Hearing (Exhibit A, pp. 6-8).

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, MDHHS determined that Petitioner was eligible for \$20.00 per month in FAP benefits for a household of two, effective June 1, 2022 (Exhibit A, p. 28). Petitioner disputed the FAP benefit amount and stated that her son should not be included in the household because they purchase and prepared food separately. Additionally, at the hearing, MDHHS acknowledged that there was a delay in processing Petitioner's Mid-Certification Contact Notice. The representative from MDHHS stated that the case was transferred to her after the delay and that she worked quickly to rectify the situation.

For FAP, MDHHS must determine the FAP group composition in order to verify eligibility for benefits. 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 (January 2022), p. 1. Living together means sharing a home where family members usually sleep and share any common living quarters, excluding access areas such as an entrance or hallway or a laundry area. *Id.*, p. 3.

MDHHS must also determine mandatory and non-mandatory group members based on the relationship of the people who live together. BEM 212, p. 1. If individuals are mandatory group members, they must be included in the same FAP group. *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.*

In this case, Petitioner reported that her ■-year-old son lived in her household with her. MDHHS stated that Petitioner's son was previously included in the FAP group and that it did not have knowledge that he purchased and prepared food separately from Petitioner. However, the record shows that Petitioner reported that he purchased and prepared food separately on the June 23, 2022 FAP Application. Because Petitioner's son is over age 22, he is not a mandatory group member, pursuant to BEM 212. Based on Petitioner's testimony, she and her son share living quarters but do not purchase and prepare food together. Therefore, Petitioner's son should not be included in Petitioner's FAP group.

Although Petitioner had an ongoing FAP case, MDHHS failed to process Petitioner's Mid-Certification Contact Notice in a timely manner, which caused in interruption in benefits and prompted Petitioner to submit a new FAP application. When a case is already active for program benefits and MDHHS receives a new application, the specialist must review the application for changes in circumstances. BAM 110 (April 2022), p. 9. The record shows that Petitioner reported that her son does not purchase and prepare food with her and that MDHHS did not process the reported change.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit rate.

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. Redetermine Petitioner's FAP benefit rate after removing her son from the FAP group, beginning June 1, 2022, ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was entitled to but did not receive from June 1, 2022 ongoing; and
3. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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-Electronic Mail :

DHHS
Chelsea McCune
Macomb County DHHS Warren Dist.
27690 Van Dyke
Warren, MI 48093
**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC4
MOAHR

Via-First Class Mail :

Petitioner

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