



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: March 8, 2023
MOAHR Docket No.: 23-000442
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 March 1, 2023 via teleconference. Petitioner appeared and represented herself. Tracey Brower, Assistant Prosecuting Attorney, and Marisa Alvarado, Caseworker, appeared on behalf of the Kent County Prosecuting Office. Jarrod Swartz, Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). Aretha Turner, Lead Support Specialist, appeared on behalf of the Office of Child Support (OCS).

ISSUE

Did MDHHS properly reduce Petitioner's FAP benefit rate due to a household member's noncooperation with child support requirements?

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 on behalf of her household, which included Petitioner's daughter, ██████████ (*hereinafter* "Daughter") and Petitioner's grandchild, ██████████ (*hereinafter* "Grandchild"). Petitioner was excluded from the FAP group due to a previous intentional program violation (IPV).
2. On January 12, 2023, MDHHS received information from the Kent County Prosecutor's Office that Daughter was noncooperative with child support requirements involving Grandchild (Exhibit A, p. 2).

3. On January 13, 2023, MDHHS removed Daughter from the FAP group and reduced benefits for the household (Exhibit A, p. 2).
4. On January 13, 2023, MDHHS issued a Notice of Case Action to Petitioner indicating that her FAP benefits decreased to \$██████ per month for a household size of one, beginning February 1, 2023 (Exhibit A, p. 6). The notice indicated that Petitioner was excluded from the FAP group due to a previous IPV and Daughter was excluded from the group because she failed to cooperate with child support requirements (Exhibit A, pp. 6-7).
5. On January 24, 2023, Petitioner submitted a Request for Hearing to the dispute MDHHS' determination (Exhibit A, p. 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, MDHHS decreased Petitioner's FAP benefit rate after removing Daughter from the FAP group due to noncooperation with child support requirements.

As a condition FAP eligibility, custodial parents or alternative caretakers of children must comply with all requests from the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney (PA) for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2023), p. 1. Failure to cooperate without good cause results in disqualification, which may include removing a group member from the group or the denial or closure of program benefits. BEM 255, p. 2. When OCS, FOC or a PA determine that a client is in cooperation or is in noncooperation, the determination is entered into Bridges, MDHHS' internal case management and eligibility program. *Id.*

In this case, MDHHS removed Daughter from the FAP group after receiving information from the PA that Daughter was not cooperating with child support requirements. A representative from the PA's office testified that she sent Daughter a questionnaire on or about December 8, 2022 and she did not receive a response. However, she was later able to contact Daughter and Petitioner, and subsequently took steps to notify MDHHS

that Daughter was cooperating with the PA as of approximately February 10, 2023. Petitioner testified that Daughter is a minor and has special needs. She further testified that she attempted to contact the PA on Daughter's behalf to ask questions about the questionnaire and resolve the matter but was unable to reach anyone prior to the deadline. Petitioner also indicated that she sent the PA the questionnaire, which was completed to the best of her ability. On or about February 13, 2023, MDHHS removed the noncooperation sanction and added Daughter back to the FAP group.

Given the circumstances in this case, the record shows that Petitioner and Daughter attempted to comply with the PA's requests for information to the best of their ability. Thus, the imposition of a child support noncooperation sanction was improper and Daughter should not have been removed from the FAP group. Accordingly, Petitioner's FAP benefits should not have been reduced.

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 removed Daughter from the FAP group and reduced Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's 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. Remove the noncooperation sanction or penalty as applied to Daughter on or about January 12, 2023 and add daughter back to the FAP group;
2. Redetermine the household's eligibility for FAP benefits for a group-size of two, including Daughter and Grandchild, beginning January 13, 2023 ongoing;
3. Issue supplements to Petitioner for any benefits that she was entitled to receive on behalf of the household but did not, from January 13, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
Administrative Law Judge

