



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: April 7, 2023
MOAHR Docket No.: 23-001264
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 April 3, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did MDHHS properly deny Petitioner's Food Assistance Program (FAP) application?

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 ██████████ 2022, Petitioner applied for FAP benefits and State Emergency Relief (SER). Petitioner's application was not processed timely due to a MDHHS error.
2. On ██████████ 2023, Petitioner submitted another FAP application, requesting FAP benefits for a household of four, consisting of her three minor children and herself. Petitioner reported that as of December 31, 2022, she is separated from her husband, ██████████ (Husband) (Exhibit A, pp. 26-33).
3. On January 5, 2023, Petitioner filed a hearing request to dispute the processing of her FAP and SER application.
4. On January 18, 2023, MDHHS registered and processed Petitioner's ██████████ 2022 FAP and SER application. MDHHS determined that Petitioner was ineligible for FAP benefits and SER due to excess income.

5. On January 18, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP application was denied, effective October 4, 2022, due to excess income. MDHHS included Husband in her FAP group (Exhibit A, pp. 21-25).
6. On February 6, 2023, a hearing was held regarding Petitioner's dispute of the denial of her FAP application.
7. Following the hearing, Administrative Law Judge Linda Jordan reversed the MDHHS' decision denying Petitioner's ██████████ 2022 FAP application and ordered the application be reprocessed. Judge Jordan ordered that MDHHS determine Petitioner's eligibility for FAP benefits beginning ██████████ 2022 (Exhibit A, p. 11).
8. MDHHS reprocessed Petitioner's ██████████ 2022 FAP application pursuant to the Decision and Order issued.
9. On February 21, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her ██████████ 2022 FAP application was denied due to excess income.
10. On March 1, 2023, MDHHS received Petitioner's timely submitted hearing request regarding the inclusion of her husband in her household when determining her FAP eligibility and including an adoption subsidy in calculating her household income (Exhibit A, pp. 3-5).

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.

Following an administrative hearing, MDHHS was ordered to reprocess Petitioner's ██████████ 2022 FAP application. MDHHS determined that Petitioner's FAP application was denied due to excess income. In making this determination, MDHHS relied upon earned income that Husband receives. Petitioner does not dispute the denial of her ██████████ 2022 application.

Pending the original processing of her [REDACTED] 2022 FAP application, Petitioner submitted an additional FAP application, reporting a FAP group size of four, consisting of her three minor children and herself. Petitioner reported that as of December 31, 2022, she and Husband are separated (see Exhibit A, p. 32). There is no evidence that the [REDACTED] 2023 FAP application was ever processed by MDHHS.

Any person has the right to apply for assistance. The date of application is the date that the local office receives the minimum information on an application or the filing form. BAM 110 (October 2022), p. 6. After receiving an application or filing form, MDHHS must register the application in Bridges (MDHHS' internal eligibility and case management system) within one workday, unless the individual is already active for the program requested. BAM 110, pp. 8, 20. Following the registration of an application, MDHHS is required to interview the client when required by policy, certify eligibility results within the standard of promptness (SOP) for each program, and notify the client of the eligibility determination. BAM 115 (January 2023), pp. 1-2. The SOP for FAP is 29 calendar days after the application date. BAM 115, p. 16.

In this case, MDHHS followed the Decision and Order issued to process Petitioner's [REDACTED] 2022 FAP application. However, there is no evidence the Petitioner's [REDACTED] 2023 FAP application was ever processed, much less within the standard of promptness required by policy. Petitioner reported a change in group size on the [REDACTED] 2023 application, which also affected a change in household income. MDHHS is required to process the [REDACTED] 2023 FAP application, issue verifications if needed, and make a determination as to whether Petitioner is eligible for FAP benefits in accordance with BAM 115. Since MDHHS did not process Petitioner's [REDACTED] 2023 FAP application, MDHHS did not act in accordance with policy.

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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2023 FAP application.

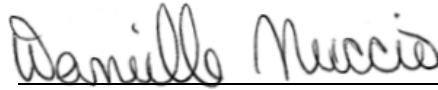
DECISION AND ORDER

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 and reprocess Petitioner's [REDACTED] 2023 application for FAP benefits;
2. Determine Petitioner's eligibility for FAP benefits beginning [REDACTED] 2023 ongoing, consistent with this hearing decision;

3. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not from [REDACTED] 2023 ongoing;
4. Notify Petitioner of its decision in writing.



Danielle Nuccio
Administrative Law Judge

DN/mp

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
MDHHS-Wayne-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]