



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: April 28, 2023  
MOAHR Docket No.: 23-001679  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 April 20, 2023 via teleconference. Petitioner appeared and represented herself. Anita Munoz, Eligibility Specialist, represented the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly issue replacement Food Assistance Program (FAP) benefits to Petitioner?

### **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 February 27, 2023, Petitioner submitted a Food Replacement Affidavit to MDHHS (Exhibit A, p. 5). Petitioner attested that she did not have electricity for six days due to a storm and that \$350.00 worth of food was destroyed (Exhibit A, p. 5). Petitioner included a letter from DTE Energy confirming that she was experiencing a power outage (Exhibit A, p. 6).
3. On March 20, 2023, Petitioner submitted an additional Food Replacement Affidavit to MDHHS and included a letter from DTE Energy confirming that she did not have power from February 22, 2023 to February 28, 2022 (Exhibit A, pp. 8-9).

4. On March 22, 2023, Petitioner filed a Request for Hearing regarding her application for FAP replacement benefits (Exhibit A, pp. 3-4).
5. On March 24, 2023, MDHHS issued \$██████ in replacement FAP benefits to Petitioner (Exhibit A, p. 11).

### **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 entitled to \$██████ in FAP replacement benefits. Petitioner disputed the amount of replacement benefits issued.

Pursuant to policy, FAP replacement benefits may be issued when food purchased with FAP has been destroyed in a domestic misfortune or disaster. BAM 502 (January 2022), p. 1. Recipients must report the loss within ten days. *Id.* MDHHS is required to send the client a notice approving or denying the client's application within ten days of the request. *Id.* Domestic misfortunes or disasters include events beyond the client's control, including fires, floods, and electrical outages. *Id.* MDHHS is required to verify the circumstances through a collateral contact, a community agency, utility company or home visit. *Id.* Generally, the replacement issuance is provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced to their full value. *Id.* MDHHS is required to discuss the amount of lost food purchased with FAP, and to replace the amount that the client states was lost, up to the value of the current month's allotment. *Id.*, p. 2.

Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2020-15 (March 2020; updated December 2020). In addition, beginning in May 2021, MDHHS began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their

household size. ESA Memo 2021-22 (May 2021). The State of Michigan issued EA from April 2020 to February 2023. ESA Memo 2023-10 (January 2022).

Here, MDHHS testified that it approved Petitioner's request for replacement FAP up to Petitioner's current monthly allotment of FAP benefits, which was \$ [REDACTED] per month. Petitioner did not dispute her ongoing benefit amount. Petitioner testified that she had received the COVID-19 EA shortly before the storm and that the value of the food that she lost exceeded her monthly benefit rate. However, replacement FAP is limited by the group's ongoing benefit rate or allotment, not including extra supplemental benefits from another source. See BAM 502, p. 2. MDHHS' actions were proper because it approved Petitioner's claim for replacement benefits up to her ongoing FAP benefit rate.

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 acted in accordance with Department policy when it approved \$ [REDACTED] in replacement benefits FAP for Petitioner.

### **DECISION AND ORDER**

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



**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**

Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209  
**MDHHS-Wayne-41-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

Cornolia Wright  
3865 Tenth Street  
Ecorse, MI 48229