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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: June 2, 2023
MOAHR Docket No.: 23-002487
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 May 25, 2023. Petitioner appeared and represented herself. Lori Turner, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) group size?

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 a household of six.
2. On August 1, 2022, Petitioner requested that MDHHS add her son, ██████████ (Son), to her FAP case. Petitioner contacted her caseworker by telephone, uploaded a form to her MI Bridges online portal and brought the form into a local MDHHS office.
3. On December 20, 2022, Petitioner submitted a FAP Semi-Annual Contact Report (Exhibit A, p. 15). Petitioner indicated that Son was a household member (Exhibit A, p. 16).
4. On March 1, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that the FAP benefit rate for a household of seven had increased, effective March 1, 2023 (Exhibit, p. 6).

5. On April 17, 2023, Petitioner filed a Request for Hearing regarding MDHHS' failure to add a group member to her FAP case (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, Petitioner filed a Request for Hearing to dispute MDHHS' failure to add Son to her FAP case in a timely manner and MDHHS' subsequent determinations regarding her FAP group size.

For MDHHS to determine eligibility for FAP, it must first determine the FAP group composition. 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. Concerning the first factor, MDHHS must determine mandatory and non-mandatory group members. *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.*

When a client reports a change for FAP, MDHHS is required to act on the change within ten days. BAM 220 (April 2022), p. 7. Changes that result in an increase in the household's benefits must be effective no later than the first allotment issued ten days after the date the change was reported, provided that any necessary verification was returned by the due date. *Id.* A supplemental issuance may be necessary in some cases. *Id.* For non-income changes, MDHHS must complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs ten days after the change is reported. *Id.*, p. 10. For positive changes, MDHHS automatically generates and Notice of Case Action to notify the client of the results of the eligibility determination. *Id.*, p. 22. A positive action or change is an action to approve an application or increase a benefit. *Id.*, p. 1.

Here, Petitioner credibly testified that she requested that Son be added to the FAP group on August 1, 2022. However, MDHHS did not process the change in household size until March 2023. MDHHS submitted an Eligibility Summary for FAP, which shows that from August 1, 2022 to October 31, 2022, MDHHS approved Petitioner for FAP benefits for a household of six (Exhibit A, p. 14). Then from November 1, 2022 through January 31,

2023, MDHHS approved Petitioner for FAP benefits for a household of seven (Exhibit A, p. 14). From February 1, 2023 to February 28, 2023, Son was inexplicably removed from the FAP group and Petitioner was approved for benefits for a household of six (Exhibit A, p. 14). Then from March 1, 2023 ongoing, Son was added back to the FAP group and Petitioner was approved for FAP benefits for a FAP group of seven.

MDHHS failed to adequately explain the delay in processing the reported change or why Son was added to the FAP group for only certain months and removed for others. Given that Petitioner requested that Son be added to the FAP group on August 1, 2022, MDHHS should have acted on the change within ten days, pursuant to BAM 220, p. 10. Additionally, because the change would have resulted in a positive action, MDHHS should have completed the FAP eligibility determination and required case actions in time to affect the next benefit month, which began September 1, 2022 in Petitioner's case. *Id.*, p. 10. The record reflects that MDHHS failed to process the reported change in a timely manner. No evidence was presented that MDHHS sent Petitioner a Notice of Case Action or that any additional information or verifications were needed to process the 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 did not act in accordance with Department policy when it failed to process the reported change within the standard of promptness.

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. Add Son to Petitioner's FAP group, effective September 1, 2022 ongoing;
2. Redetermine Petitioner's FAP benefit rate for a household of seven, effective September 1, 2022 ongoing;
3. Issue supplements to Petitioner for any benefits that she was eligible to receive from September 1, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.



LJ/tm

Linda Jordan
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

Via-Electronic Mail :

DHHS
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
**MDHHS-Wayne-17-
hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner

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