



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: [REDACTED]
MOAHR Docket No.: 23-003821
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on August 2, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

ISSUE

The issue is whether MDHHS properly updated Petitioner’s Food Assistance Program (FAP) eligibility from August 2022 through September 2023.

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 [REDACTED] [REDACTED] 2023, an administrative hearing decision ordered MDHHS to redetermine Petitioner’s FAP eligibility beginning September 2022 based on a group size of 7, which included Khaled Silmi (hereinafter, “Son”). MDHHS was also ordered to issue FAP benefit supplements accordingly.
2. As of July 2023, MDHHS issued the following FAP benefits to Petitioner:

September 2022	\$ [REDACTED]
October 2022	\$ [REDACTED]
November 2022	\$ [REDACTED]
December 2022	\$ [REDACTED]
January 2023	\$ [REDACTED]
February 2023	\$ [REDACTED]

3. On June 29, 2023, Petitioner requested a hearing to dispute FAP issuances from August 2022 through February 2023.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute FAP eligibility. Exhibit A, pp. 3-4. Petitioner specifically disputed MDHHS's failure to issue FAP benefit supplements from August 2022 through February 2023 following an administrative hearing decision dated June 2, 2023. The decision, issued under Michigan Office of Administrative Hearings and Rules docket no. 23-002487, ordered MDHHS to redetermine Petitioner's FAP eligibility beginning September 2022 based on a group that included Son; MDHHS was additionally ordered to issue supplements and notice to Petitioner.

When a decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification, is sent with the hearing decision. BAM 600 (March 2021) p. 44. MDHHS is to complete the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. *Id.*

Petitioner contended she was entitled to a supplement of FAP benefits for August 2022. Petitioner's contention was addressed in the decision issued under 23-002487. The ALJ ordered MDHHS to process Petitioner's FAP eligibility beginning September 2022, not August 2022.¹ Petitioner provided no alternative basis for a benefit supplement for August 2022. Thus, Petitioner's hearing request will be dismissed concerning FAP eligibility for August 2022.

Petitioner additionally contended she was entitled to receive additional FAP benefits from September 2022 through February 2023. As discussed above, an ALJ ordered MDHHS to issue FAP benefits to Petitioner based on a group size of seven persons. Benefit Summary Inquiry documents verified the following FAP issuances to Petitioner:

September 2022	\$ [REDACTED]
October 2022	\$ [REDACTED]
November 2022	\$ [REDACTED]
December 2022	\$ [REDACTED]
January 2023	\$ [REDACTED]
February 2023	\$ [REDACTED]

¹ The ALJ specifically found that Petitioner reported an additional household member in August 2022 and cited policy that MDHHS is to process a reported benefit member change for the following month.

To determine if the above issuances were correct, Petitioner's correct FAP issuance for a group size of seven must be calculated. FAP budgets are not necessary. From September 2022 through February 2023, MDHHS issued the maximum FAP benefit issuance available to a group if the group was eligible for any amount of FAP benefits.² MDHHS contended that Petitioner's FAP eligibility was uncertain because income for Son was not verified and/or verified late. MDHHS made no mention of this contention in its Hearing Summary. Exhibit A, p. 1. During the hearing, MDHHS provided no supporting documentation or full argument to support its contention that Petitioner's FAP eligibility was uncertain. Given the evidence, Petitioner was entitled to some FAP benefits from September 2022 through February 2023. Thus, Petitioner was entitled to the maximum FAP issuance for a group size of seven persons from September 2022 through February 2023.

In September 2022, the maximum FAP benefit issuance for a group size of seven persons was \$1,316; MDHHS issued \$[REDACTED]. From October 2022 through at least February 2023, the maximum FAP benefit issuance for a group size of seven was \$1,480. Petitioner did receive a correct FAP issuance of \$[REDACTED] in January 2023. For all other months from September 2022 through February 2023, Petitioner only received \$[REDACTED] in FAP benefits.

Given the evidence, MDHHS failed to comply with Hearing Decision docket no. 23-002487 by failing to issue proper FAP supplements to Petitioner from September 2022 through February 2023, but for January 2023. As a remedy, MDHHS will be again ordered to issue supplements and notice to Petitioner.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to comply with MOAHR docket no. 23-002487 by failing to issue FAP supplements to Petitioner from September 2022 through February 2023, but for January 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Supplement Petitioner for FAP benefits from September 2022 through February 2023, but for January 2023, based on a benefit group of seven persons which includes Son; and
- (2) Issue the supplements and notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/dm



Christian Gardocki
Administrative Law Judge

² See Economic Stability Administration Memo 2020-15 (March 26, 2020) and subsequent memos extending the policy.

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
**MDHHS-Wayne-17-
hearings@michigan.gov**

HoldenM

SweeneyD1

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

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