



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: September 27, 2023
MOAHR Docket No.: 23-005111
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 September 20, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sara Hoek, manager, and Catherine Milais, specialist.

ISSUE

The issue is whether MDHHS properly denied Food Assistance Program (FAP) application due to Petitioner and his children receiving benefits on another case.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2023, Petitioner and his three minor children (hereinafter, "Children") received FAP benefits on a case with Children's mother as the case grantee.
2. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits and reported a household including Children. Petitioner additionally reported residency in a domestic violence shelter after moving away from Children's mother.
3. On an unspecified date in July 2023, MDHHS removed Children from their mother's FAP case.

4. On July 25, 2023, MDHHS approved Petitioner and Children for FAP benefits beginning August 2023. MDHHS also denied Petitioner's FAP benefit application for June and July 2023 due to Petitioner and Children receiving FAP benefits on Children's mother's case.
5. On August 16, 2023, Petitioner requested a hearing to dispute the denial of FAP for June and July 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 to dispute FAP benefit eligibility for June and July 2023. Exhibit A, p. 4. A Notice of Case action dated July 25, 2023, stated that Petitioner and Children were ineligible for FAP benefits in June and July 2023 because they were active on another case. Exhibit A, pp. 22-27.

Generally, a person cannot be a member of more than one FAP certified benefit group in any month. BEM 222 (October 2018) p. 3. However, a resident of a shelter for victims of domestic violence may temporarily be a member of two FAP groups. *Id.* Many shelter residents have recently left a FAP group containing the person who abused them. BEM 617 (July 2016) p. 4. Such residents may apply and participate (if otherwise eligible) as a separate FAP group during the same month they were included in the former case. *Id.* MDHHS is to treat the application as an initial application and prorate the initial FAP benefit. *Id.* This additional issuance of benefits can be authorized only once a month. *Id.* Remove the client (or client and children) from the former FAP case promptly. *Id.*

It was not disputed that Petitioner and Children received FAP benefits on a case with Children's mother in June and July 2023. Petitioner applied for FAP benefits on [REDACTED] 2023, and reported residency with his three minor children. Exhibit A, pp. 5-13. During an application interview, Petitioner reported that he and Children were residing in a domestic violence shelter. Exhibit A, pp. 14-21. As reported residents of a domestic violence shelter, Petitioner and Children could have received duplicate benefits in June and July 2023 because of the need to serve victims of abuse. MDHHS provided no explanation for why Petitioner and/or Children did not qualify for FAP benefits for their own group.

Given the evidence, MDHHS failed to consider Petitioner and Children potential eligibility for FAP benefits in June and July 2023 as a separate FAP group due to

domestic violence shelter residency.¹ As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP application dated [REDACTED] 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed Petitioner's FAP application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister and reprocess Petitioner's FAP application dated [REDACTED] 2023.
- (2) Reprocess Petitioner's application subject to the finding that Petitioner and Children are potentially eligible for duplicate FAP benefits in June and July 2023 due to residency in a domestic violence shelter; and
- (3) Issue notice and notices in accordance with policy.

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

CG/nr



Christian Gardocki
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

¹ It is not known with certainty that Petitioner and Children resided in a domestic violence shelter. MDHHS may need to verify shelter residency before issuing duplicate benefits.

Via-Electronic Mail :

DHHS

Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Grand Rapids, MI 49507

**MDHHS-Kent-
Hearings@michigan.gov**

Interested Parties

Kent County DHHS
BSC3
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]