



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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

Date Mailed: November 8, 2023
MOAHR Docket No.: 23-006126
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 October 30, 2023, via teleconference. Petitioner appeared and represented himself with the assistance of an Arabic interpreter. Rafi Rahman, Lead Worker, and Kelly Koshell, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly exclude Petitioner from the household Food Assistance Program (FAP) group?

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 on behalf of himself and his daughter.
2. On August 4, 2023, Petitioner submitted a FAP Redetermination to MDHHS (Exhibit A, p. 7).
3. On September 1, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that his household was approved for FAP benefits for a group size of one, beginning October 1, 2023 (Exhibit A, p. 12). Petitioner was excluded from the

FAP group (Exhibit A, p. 12). The notice indicated that Petitioner was registered for work due to participation in the FAP program (Exhibit A, p. 13). No information was provided in the notice regarding the reason for the exclusion of Petitioner from the FAP group.

4. On September 1, 2023, MDHHS sent Petitioner a Quick Note requesting verification that Petitioner could not work (Exhibit A, p. 30).
5. On September 25, 2023, Petitioner requested a hearing to dispute MDHHS' determination regarding his FAP group composition (Exhibit A, p. 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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, MDHHS determined that Petitioner had a FAP group-size of one and that he was excluded from the FAP group. Although no information regarding the exclusion was provided on the Notice of Case Action, MDHHS testified at the hearing that he was excluded due to a FIP/cash assistance work-related sanction. Although the work-related sanction stems from an action related to FIP benefits, the repercussions extend to the FAP program, and therefore, Respondent is entitled to a hearing on the matter. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing regarding the denial of an application, restrictions under which benefits or services are provided and current benefit levels for FAP. BAM 600 (March 2021), p. 5.

FIP is a cash assistance program designed to help individuals and families become self-sufficient. BEM 209 (January 2022), p. 1. Individuals are eligible for FIP if they satisfy all financial and non-financial eligibility requirements. *Id.* Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless

temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2022), p. 1. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, may be penalized under Department policies. BEM 223A (January 2022), p. 1. Penalties included case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and a lifetime closure for the third episode of noncompliance. *Id.* A FIP-related disqualification can also extend to the participant's eligibility for FAP. See BEM 233B (January 2019), p. 1.

MDHHS testified that the work-related sanction was for not complying with FIP requirements and that the sanction began in May 2023 and would be lifted if and when Petitioner began working. When asked about the underlying reason for the FIP sanction, MDHHS stated that Petitioner did not meet Michigan Works! Service Center requirements, that a triage meeting was held on March 30, 2023, and no good cause for failing to meet the requirements was found. No other information regarding the underlying reasons for the sanction was provided. There was no testimony from a Michigan Works! representative and no specific details regarding what Petitioner did or failed to do to justify the sanction. It is also unclear what the length of the sanction was and when or if MDHHS informed Petitioner of the sanction. MDHHS did not introduce any notices that informed Petitioner of the underlying sanction as documentary evidence.

Although a FIP sanction can extend to an individual's eligibility for FAP, MDHHS failed to establish that the underlying sanction was valid. Petitioner denied any noncooperation and testified that he has been searching for work and has not declined any work opportunity. Additionally, Petitioner testified that he is taking care of his daughter with special needs, which hinders his ability to find a job.

Given the lack of evidence in the record regarding Petitioner's work-related sanction, MDHHS failed to establish that it properly excluded Petitioner from his FAP group. Additionally, the Notice of Case Action was defective because it did not inform Petitioner that he was excluded from the FAP group and the reason for the exclusion. MDHHS had the burden of establishing that it properly determined Petitioner's eligibility for FAP benefits at the hearing and it failed to do so here.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner was ineligible for FAP and excluded him from his FAP group.

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. Remove the work-related noncooperation sanction/disqualification stemming from the March 2023 triage meeting and applied to Petitioner's FAP and FIP cases;
2. Include Petitioner in his FAP group and redetermine the group's eligibility for benefits for a household of two, beginning October 1, 2023 ongoing;
3. Issue supplemental FAP payments for any benefits that Petitioner was entitled to receive but did not, from October 1, 2023 ongoing; and
4. Notify Petitioner of its decision(s) 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
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties
M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

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