



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], MI [REDACTED]

Date Mailed: November 17, 2023
MOAHR Docket No.: 23-006514
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

Following [REDACTED] [REDACTED] (Petitioner) 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 November 8, 2023, via teleconference. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. [REDACTED] [REDACTED] appeared as a witness for Petitioner. Danielle Moton, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

MDHHS filed the present appeal under the name and case number of [REDACTED] [REDACTED] ("Daughter"). However, [REDACTED] [REDACTED] [REDACTED] [REDACTED] mother, filed the Request for Hearing to dispute MDHHS' determinations regarding her FAP application and FAP eligibility in Case No. [REDACTED]. Daughter was receiving FAP benefits on a separate case, Case No. [REDACTED]. The present appeal should have been filed under [REDACTED] [REDACTED] name and case number.

ISSUES

1. Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) benefits and properly determine Petitioner's FAP group composition?

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 May 15, 2023, [REDACTED] [REDACTED] (Daughter) passed away (Exhibit A, p. 16). Since that time, Daughter's four children have been living with Petitioner, their maternal grandmother.
2. On or about [REDACTED] [REDACTED] 2023, Petitioner applied for FAP on behalf of herself and her grandchildren.
3. On June 16, 2023, MDHHS interviewed Petitioner in connection with her application for FAP (Exhibit A, p. 19). Petitioner reported that Daughter was deceased, that she lived with her grandchildren, and that they purchased and prepared food together (Exhibit A, p. 19).
4. On July 24, 2023, Petitioner applied for FAP on behalf of herself and her grandchildren. MDHHS approved Petitioner for a household of one. The grandchildren were not included in Petitioner's FAP group because they were still active on Daughter's FAP case.
5. On September 21, 2023, Petitioner requested a hearing regarding MDHHS' determinations regarding her FAP benefits (Exhibit A, pp. 3-5).
6. On October 6, 2023, MDHHS sent Daughter a Notice of Case Action indicating that she was approved for FAP benefits for a household of four, from October 1, 2023, to October 31, 2023 (Exhibit A, p. 8). The notice indicated that the group's FAP benefits were closed November 1, 2023, ongoing (Exhibit A, p. 8).

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. FAP 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 denied Petitioner's application for FAP on behalf of herself and her grandchildren because the grandchildren were still active on their deceased mother's case. The date of Petitioner's initial application for FAP is not clear from the record, but MDHHS completed the interview in conjunction with that application on [REDACTED] [REDACTED] 2023. At that time, Petitioner reported that Daughter was deceased, that she was living with her grandchildren and that they purchased and prepared food together. As described in more detail below, MDHHS failed to properly process this change and failed to properly determine Petitioner's FAP group size.

When an individual applies for assistance, MDHHS must register the application unless the client is already active for that program. BAM 110 (October 2022), p. 8. All applications, redeterminations, referrals, initial asset assessments, member adds, and program adds must be registered on Bridges, MDHHS' internal case management and eligibility system. *Id.*, p. 20. All individuals in a household must be identified and included in the household. *Id.*, p. 21. MDHHS must complete a member add case action in Bridges for all individuals who move into a household to add them to the existing household and eligibility determination groups. *Id.* pp. 21-22.

For FAP, MDHHS must determine the FAP group composition in order to verify eligibility for benefits. 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. Living together means sharing a home where family members usually sleep and share any common living quarters, excluding access areas such as an entrance or hallway or a laundry area. *Id.*, p. 3.

MDHHS must also determine mandatory and non-mandatory group members based on the relationship of the people who live together. BEM 212, p. 1. If individuals are mandatory group members, they must be included in the same FAP group. *Id.* If they are non-mandatory group members, then MDHHS considers the factors listed above. *Id.* A caretaker is a related or unrelated person who provides care or supervision to children under 18 who live with the caretaker but who is not a natural, step or adopted child. *Id.*, p. 2. A person acting as a parent for children must be in the same group if that person lives with the children in question. *Id.*

MDHHS must process reported changes to determine whether the change affects eligibility for program benefits. BAM 220 (April 2023), p. 1. In the event of a beneficiary's death, a reliable source must verify the death before action is taken on the case. *Id.*, p. 18. Reliable sources include death notices, friends, and relatives of the beneficiary and other agencies. *Id.* pp. 18-19. For FAP, MDHHS is required to act on a reported change within ten days of becoming aware of the change. *Id.*, p. 9.

Here, MDHHS received information from a reliable source regarding Daughter's death on June 16, 2023. The record shows that MDHHS failed to properly process that change. Additionally, MDHHS failed to properly process Petitioner's FAP application and FAP group size after becoming aware that Petitioner's grandchildren were living in the same household as Petitioner and that they were purchasing and preparing food together. Pursuant to policy, Petitioner was the caregiver of the children at the time that she submitted the initial application, and therefore, the children were mandatory household members. MDHHS should have included the children in the FAP group on Petitioner's first application. Petitioner applied for FAP again on July 24, 2023, and was approved for a group-size of one. MDHHS also improperly determined Petitioner's group size on the second application.

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 did not act in accordance with Department policy when it denied Petitioner's application for FAP and subsequently determined that Petitioner had a group-size of one.

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. Reregister and reprocess Petitioner's FAP application filed on or about [REDACTED] [REDACTED] 2023, including the grandchildren in the FAP group composition.
2. Redetermine Petitioner's eligibility for FAP benefits from the date of the application filed on or about [REDACTED] [REDACTED] 2023, ongoing.
3. Issue supplemental benefits to Petitioner for any FAP benefits that she was eligible to receive from the date of the initial application filed on or about [REDACTED] [REDACTED] 2023, ongoing; and
4. Notify Petitioner of its decision in writing.



LJ/nr

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
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