



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 22, 2023  
MOAHR Docket No.: 23-006878  
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 November 15, 2023, via teleconference. Latuna Wade, Authorized Hearing Representative (AHR), appeared on behalf of Petitioner. Lekeitia Cokley, Hearings Facilitator, 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) benefit rate?

**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.
2. On October 3, 2023, a hearing was held in Michigan Office of Administrative Hearings and Rules (MOAHR) Case No. 23-004210, Administrative Law Judge (ALJ) Colleen Lack presiding (Exhibit A, p. 6).
3. On October 3, 2023, Petitioner requested a hearing to dispute the calculation of his FAP benefit rate and the processing of the reported change in rent and the processing of his June 2023 FAP renewal (Exhibit A, p. 4).

4. On October 13, 2023, ALJ Lack issued a Hearing Decision (October 13 Decision) ordering MDHHS to redetermine Petitioner's eligibility for FAP benefits as of February 1, 2023, in accordance with Department Policy (Exhibit A, p. 9).
5. Following the October 13 Decision, MDHHS redetermined Petitioner's FAP eligibility for the month of February only and found no changes. It did not issue a Notice of Case Action with the eligibility results.

### **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.

As a preliminary matter, the undersigned ALJ must address whether there is jurisdiction to consider Petitioner's hearing request, in light of the October 13 Decision. MDHHS argued that the case should be dismissed because the matter was previously adjudicated. However, MDHHS also testified that as a result of the October 13 Decision, it redetermined Petitioner's FAP eligibility for the month of February 2023 only and found no changes. It did not redetermine Petitioner's FAP eligibility from March 1, 2023 ongoing. Accordingly, MDHHS' corrective action did not extend to Petitioner's FAP benefit rate from March 1, 2023 to present, and thus, the dispute has not been resolved. Additionally, FAP beneficiaries have the right to challenge their current and ongoing benefit levels whenever they believe that the benefit amount is incorrect, and therefore, Petitioner is entitled to a hearing based on the October 3, 2023 Request for Hearing. BAM 600 (March 2021), pp. 6-7.

In this case, Petitioner disputed the computation of his FAP benefit rate based on the six-month renewal submitted in June 2023 and a change in rental expense submitted in April 2023. MDHHS presented very little evidence at the hearing and testified that Petitioner's FAP benefit rate fluctuated from \$████.00 per month to \$████.00 per month in the months preceding the hearing. MDHHS did not present any FAP budgets to justify the calculation of Petitioner's FAP benefit rate. MDHHS did not adequately explain how it processed Petitioner's reported changes or the six-month renewal. Additionally, MDHHS failed to present notice of case action(s) describing these fluctuations and failed to provide adequate testimony to demonstrate that informed Petitioner of the changes in his FAP benefit rate.

MDHHS is required to process changes reported by the client according to the standards of promptness described in BAM 220 (October 2023), pp. 6-8. Additionally, MDHHS is required to send beneficiaries notice upon certification of eligibility results. *Id.*, p. 2. Finally, MDHHS has the burden of showing that it acted in accordance with relevant laws and policies during an administrative hearing. Here, MDHHS has failed to establish that it properly determined Petitioner's FAP benefit rate, that it properly processed Petitioner's reported changes, or that it notified Petitioner of the changes in his benefit amount, from March 1, 2023 ongoing.

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 Department failed to satisfy its burden of showing that it acted in accordance with Department policy when determining Petitioner's eligibility for FAP.

### **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. Redetermine Petitioner's eligibility for FAP benefits, from March 1, 2023 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that he was eligible to receive, but did not, from March 1, 2023 ongoing; and
3. Notify Petitioner in writing of its decision(s).



LJ/nr

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**Linda Jordan**  
Administrative Law Judge

