



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

MARNITA JOHNSON
24341 ELMIRA
REDFORD, MI 48239

Date Mailed: December 8, 2023
MOAHR Docket No.: 23-007366
Agency No.: 102123505
Petitioner: Marnita Johnson

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 November 30, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Khaleah Cameron, specialist, and LaShona Callen, supervisor.

ISSUE

The issue is whether MDHHS properly processed Petitioner's Food Assistance Program (FAP) eligibility following a reported change in medical expenses.

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] 2023, Petitioner applied for FAP benefits.
2. On August 23, 2023, Petitioner reported to MDHHS having \$667.76 in monthly medical expenses.
3. On October 17, 2023, an administrative hearing decision ordered MDHHS to reprocess Petitioner's FAP application dated [REDACTED] 2023 subject to the finding that Petitioner reported on August 23, 2023 having medical expenses of \$667.76.
4. On October 23, 2023, Petitioner verified \$1,082 in monthly medical expenses.

5. As of October 23, 2023, MDHHS had not yet requested verification of Petitioner's medical expense reporting from August 2023.
6. On October 25, 2023, MDHHS approved Petitioner for an increase in FAP benefits beginning November 2023 based on verified monthly medical expenses of \$1,082.
7. On October 30, 2023, Petitioner requested a hearing to dispute the absence of medical expenses factored in FAP eligibility from August through October 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 BAM, BEM, and RFT.

Petitioner requested a hearing to dispute FAP benefits. Exhibit A, pp. 4-6. A Notice of Case Action dated October 25, 2023, verified that Petitioner received an increase in FAP benefits beginning November 2023 based on medical expenses of \$1,082 per month. Exhibit A, pp. 7-11. Petitioner contended that MDHHS should have factored the medical expenses in her FAP eligibility beginning August 2023.

For FAP benefits, MDHHS is to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2023) p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* A supplemental issuance may be necessary in some cases. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*

A senior, disabled, disabled veteran (SDV) group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction of \$165. BEM 554 (April 2023) p. 9. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. *Id.*

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7.

Petitioner's dispute stemmed from a Hearing Decision issued under MOAHR docket number 23-005522. Exhibit A, pp. 40-44. The decision ordered MDHHS to process

Petitioner's application for FAP benefits dated [REDACTED] [REDACTED] 2023, subject to the finding that Petitioner reported to MDHHS on August 23, 2023, having monthly medical expenses of \$667.76. *Id.* In response to Petitioner's reporting, MDHHS should have sent Petitioner a VCL requesting proof of medical expenses within 10 days. MDHHS testimony acknowledged that Petitioner reported \$1,082 in monthly medical expenses on October 23, 2023. MDHHS also acknowledged it had not requested verification of Petitioner's medical expenses until November 2, 2023.

MDHHS's failure to send a VCL until November 2023 renders Petitioner's verification of medical expenses in October 2023 to be timely. Based on a reporting date of August 23, 2023, and timely returned verification, MDHHS should have updated Petitioner's FAP eligibility beginning the first full benefit month following 10 days from the reporting date: October 2023.¹ Thus, Petitioner was entitled to updated FAP benefits beginning October 2023. MDHHS will be ordered to process Petitioner's benefit eligibility accordingly.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to properly process Petitioner's reported change concerning medical expenses. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning October 2023 subject to the finding that Petitioner timely reported and verified monthly medical expenses of \$1,082; and
- (2) Issue notice and supplements, if any, in accordance with all MDHHS policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

¹ MDHHS policy states, the change is to be effective "the first allotment issued 10 days after the date the change was reported". The "first allotment" is understood as the first full benefit month.

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
Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties
Wayne 15 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

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