



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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

Date Mailed: September 15, 2022
MOAHR Docket No.: 22-003625
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 12, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ashley Soper, manager

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 2022, Petitioner was an ongoing recipient of FAP benefits.
2. On an unspecified date, MDHHS determined that Petitioner was ineligible for FAP benefits effective July 2022 due to excess net income.
3. As of July 2022, MDHHS failed to send written notice of closure to Petitioner.
4. On August 11, 2022, Petitioner requested a hearing to dispute the termination of FAP benefits.

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 a termination of FAP benefits beginning July 2022. Exhibit A, p. 3. MDHHS testified that Petitioner's FAP eligibility ended due to excess net income after Petitioner's son was added to Petitioner's group; however, MDHHS did not issue written notice of closure to Petitioner.

For all programs, MDHHS is to automatically notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (April 2022) p. 2. Notices must include the action taken by MDHHS, the reason for the action, the specific manual item which cites the legal basis for action, an explanation of the right to request a hearing, and the conditions under which benefits may be continued if a hearing is request. *Id.*, p. 3.

MDHHS acknowledged terminating Petitioner's FAP eligibility without sending written notice to Petitioner. MDHHS's failure to send written notice renders the termination of Petitioner's FAP eligibility to be improper.

Given the evidence, MDHHS improperly terminated Petitioner's FAP eligibility beginning July 2022. As a remedy, Petitioner is entitled to a reinstatement of FAP benefits.

MDHHS testimony indicated that FAP reinstatement will not result in the issuance of FAP supplements due to Petitioner's ineligibility due to excess income.¹ Petitioner's ongoing eligibility after MDHHS's improper closure is outside the jurisdiction of the present case. However, MDHHS may not improperly stop benefits and retroactively deny supplements. If Petitioner was ineligible for FAP benefits after case closure, MDHHS must reinstate the case, issue benefits accordingly, and stop Petitioner's FAP eligibility going forward. Petitioner should be warned that supplements issued for months that MDHHS may later recoup the benefits if she was not eligible.

¹ MDHHS contended that Petitioner would be ineligible after adding her son and his income to her ongoing benefit group. Petitioner's son applied for FAP benefits on [REDACTED] 2022, and reported residency with Petitioner. Exhibit A, pp. 4-10.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility beginning July 2022. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP benefits beginning July 2022; and
- (2) Issue any FAP benefits improperly not issued.

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

CG/mp


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

Via-Electronic Mail :

DHHS
MDHHS-Oakland-6303-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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