



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 26, 2019
MOAHR Docket No.: 19-012480
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: John Markey

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 telephone hearing was held on December 19, 2019 from ██████████ Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 35-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-35.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective December 1, 2019?

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 from the Department with a household size of five people.
2. On October 1, 2018, the Department issued to Petitioner a Semi-Annual Contact Report to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Exhibit A, pp. 5-7.
3. On October 21, 2019, Petitioner returned to the Department the completed Semi-Annual Contact Report. Exhibit A, pp. 5-7.

4. On November 8, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective December 1, 2019, as a result of the Department's conclusion that Petitioner's income exceeded the net income limit for program eligibility. Exhibit A, pp. 8-10.
5. On November 20, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of Petitioner's FAP eligibility, effective December 1, 2019.

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. The Department (formerly known as the Department of Human Services) 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, Petitioner objects to the Department's determination that Petitioner is not eligible for FAP benefits, effective December 1, 2019, because her income exceeds the net income limit applicable to her household of five. Petitioner believes that the Department erred in budgeting her household income. During the hearing, the Department explained that Petitioner had unearned income of \$1,661 per month. Petitioner acknowledged that income. However, the Department was also budgeting \$[REDACTED] per month in earned income from three different sources. One was Petitioner's job with [REDACTED]. Another was a job with [REDACTED]. The third was a job with [REDACTED]. During the hearing, the Department representative, Ms. Foley, testified that on August 2, 2019, the Department had received a verification that Petitioner's employment at [REDACTED] had ended in May 2019. However, the Department did not remove the income from Petitioner's budget.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits, and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. When a client indicates that income has stopped, the Department is required to verify that fact. BEM 500, p. 14. Once the loss of income is verified, the Department must budget the final income expected to be received in the benefit month then remove the stopped income from the budget for future months. BEM 505 (October 2017), p. 8.

The Department failed to follow Department policy when it continued to budget Petitioner's income from her employment with [REDACTED] well beyond the last month in which Petitioner worked there and after she had verified that it had stopped. That error caused the Department to overstate Petitioner's earned income. The Department must remove that income from Petitioner's case and properly determine Petitioner's eligibility using correct information.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits, effective December 1, 2019, ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT 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. Reinstate Petitioner's FAP benefits case;
2. Remove from the budget the income that Petitioner verified had stopped months prior to December 2019;
3. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;
4. Redetermine Petitioner's eligibility for FAP benefits from December 1, 2019, ongoing;
5. If Petitioner is eligible for additional benefits, promptly issue a supplement; and
6. Notify Petitioner in writing of its decisions.

JM/jaf



John Markey

Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

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

DHHS (via electronic mail)

Susan Noel
MDHHS-██████████-Hearings
BSC4
M Holden
D Sweeney

Petitioner (via first class mail)

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