



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]
Date Mailed: December 11, 2020

MOAHR Docket No.: 20-006400

Agency No.: [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 7, 2020, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case and deny her subsequent application for FAP benefits?

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. Petitioner's household consisted of herself and her minor child.
2. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed.
3. On or around [REDACTED], 2020, Petitioner completed and submitted a redetermination to the Department to renew her FAP benefits. On the redetermination, Petitioner reported that her household included herself, her minor child, and [REDACTED], the child's father. On the redetermination, Petitioner reported that this change occurred on June 1, 2020, that [REDACTED] underwent heart surgery on February 27, 2020, required medical care and had applied for disability. She further reported that he is back in her home due to coronavirus and

that it made more sense for them to be under one home, as their son was homebound and disabled. (Exhibit A, pp. 7-13)

4. On [REDACTED], 2020, Petitioner completed and submitted a second redetermination to the Department on which she reported that her household included only herself and her minor child. In the additional changes section, Petitioner reported that this was her second application and could better explain in her interview. (Exhibit A, pp. 14-16)
5. During a redetermination interview on [REDACTED], 2020, Petitioner again reported that [REDACTED] was living in her household and that he moved in on February 28, 2020. She reported that she, [REDACTED], and their minor child purchase and prepare food together, that [REDACTED] is unable to work and that he was approved for disability with payments beginning in October 2020.
6. In processing the redetermination for the October 2020 benefit period, the Department concluded that [REDACTED] was a mandatory group member living in Petitioner's household.
7. The Department determined that Petitioner had unearned income from unemployment compensation benefits (UCB) and that [REDACTED] had unearned income from UCB and Retirement Survivors Disability Insurance (RSDI) benefits.
8. On September 16, 2020, the Department sent Petitioner a Notice of Case Action advising her that effective October 1, 2020, her FAP case would be closed because her household's net income exceeded the limit. (Exhibit A, pp. 36-37)
9. On [REDACTED], 2020, Petitioner submitted a new application for FAP benefits and reported that her household consisted of only herself and her minor child. (Exhibit A, pp. 38-43)
10. During an application interview on [REDACTED], 2020, Petitioner reported that [REDACTED] does not live in her household and provided an address for [REDACTED] of [REDACTED]. Petitioner reported that the deed to her home at ([REDACTED]) is in her name but the mortgage is in the name of [REDACTED]. (Exhibit A, pp. 44-46)
11. The Department made a Front-End Eligibility (FEE) Referral to the Office of Inspector General (OIG), as Petitioner had provided inconsistent information regarding her household group composition. (Exhibit A, pp. 47-50)
12. According to information obtained during the FEE Investigation, on [REDACTED], 2020, [REDACTED] applied for Medical Assistance (MA) benefits, identifying Petitioner's address on his application. [REDACTED] MA case remained associated with Petitioner's address as of the hearing date. (Exhibit A, pp. 53-57). A CLEAR report concluded that [REDACTED] most recent address was that of Petitioner's

home and an SOLQ confirmed that [REDACTED] address for RSDI purposes was also Petitioner's home. (Exhibit A, pp. 47-50)

13. During an interview with OIG in connection with the FEE Investigation, Petitioner reported that [REDACTED] had heart surgery and was only supposed to stay at her home for a few days to recover but was subsequently taken back to the hospital. She reported that when he was released, she allowed him to stay in her home to assist him, which is when COVID-19 occurred. She denied that they purchase and prepare food together and reported that he gives her his own money to prepare his food. She further reported that [REDACTED] lives in [REDACTED] and that the mortgage to her home is in his name after it was refinanced but that the home is hers and the deed is in her name. (Exhibit A, pp. 47-50)
14. Based on the information obtained during the FEE Investigation, the Department concluded that [REDACTED] was living in Petitioner's home and thus, was a mandatory group member, as they shared a child in common.
15. On October 8, 2020, the Department sent Petitioner a Notice of Case Action denying her [REDACTED], 2020 FAP application because with [REDACTED] included as a mandatory group member, the household income exceeded the limit. (Exhibit A, pp. 51-52)
16. On October 9, 2020, Petitioner verbally requested a hearing disputing the Department's actions and the inclusion of [REDACTED] in her household.

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 requested a hearing disputing the closure of her FAP case effective October 1, 2020 and the denial of her [REDACTED], 2020, FAP application. There was no dispute that as of October 2020, [REDACTED] was receiving UCB, and RSDI and that Petitioner was receiving UCB in the amounts identified during the hearing. At issue was the inclusion of [REDACTED] as a household group member for FAP purposes.

The Department will determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. FAP group composition is established by determining who lives together, the relationships of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person resides in an eligible living situation. BEM 212 (October 2020), p. 1. The relationships of the people who live together affects whether they must be included or excluded from the group. Mandatory group members must be included in the group, regardless of whether they purchase or prepare food together or separately. Parents and their children under 22 years of age who live together **must** be in the same group regardless of whether the children have their own spouse or child who lives with the group and regardless of whether they purchase and prepare food together. BEM 212, pp. 1-2. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom, or living room. BEM 212, p. 3.

At the hearing, the Department testified that based on information provided by Petitioner during the redetermination interview and subsequently, the information obtained by OIG during the FEE Investigation, all of which is outlined in the above findings, it concluded that [REDACTED] was a mandatory household member for Petitioner's FAP case. There was no dispute that Petitioner and [REDACTED] shared a child in common.

Petitioner disputed that [REDACTED] was a mandatory group member and testified that his presence in her home was a temporary situation. Petitioner testified that [REDACTED] had heart surgery on or around February 27, 2020 and came to her home to recover. She further testified that he returned to her home after his hospitalization in March 2020. Petitioner stated that their son is homebound and requires medication daily. She stated that she allowed [REDACTED] to stay in the home because it was during the time of the COVID-19 situation and she could not be leaving the home to care for him at his residence and her disabled son at the same time. Petitioner reported that [REDACTED] identification documented his address in [REDACTED].

Petitioner argued that the Department's determination was based solely on the information obtained indicating that the mortgage to her home was in [REDACTED] name. She provided a similar explanation during the hearing as that provided to the OIG regarding the mortgage and deed. While Petitioner testified that she completed [REDACTED] MA and RSDI applications as an explanation for her address being identified on the documents, Petitioner provided conflicting information during the hearing regarding the dates in which [REDACTED] left her home and no longer lived with her. Although Petitioner initially stated that when he recovered from surgery he would go back and forth between his home and hers, she later testified that he returned to her home in August 2020 to care for her after an emergency surgery she underwent on August 11, 2020. It was unclear how long he remained in Petitioner's home afterwards, although some of Petitioner's testimony suggested September 2020. Furthermore, other than to state that she was taking medication at the time she completed the documents, Petitioner failed to sufficiently explain the discrepancies in the information she provided

on the two redeterminations she submitted and that which she provided during the redetermination interview with respect to her household group composition.

Therefore, upon thorough review of the evidence obtained during the processing of the redetermination, the interviews conducted by the Department, and the results of the FEE Investigation, the Department properly concluded that [REDACTED] was a mandatory household member of Petitioner's FAP group. Because he is a mandatory household group member, his income is countable for FAP purposes.

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 acted in accordance with Department policy when it closed Petitioner's FAP case and denied her FAP application.

DECISION AND ORDER

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

ZB/jem



Zainab A. Baydoun
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

Via Email:

MDHHS-Oakland-6306-Hearings
BSC4-HearingDecsions
M. Holden
D. Sweeney
MOAHR

Petitioner - Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]