



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: January 19, 2021  
MOAHR Docket No.: 20-007394  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 January 6, 2021. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Carrie Weeks, Family Independence Manager (FIM).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-36.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

### **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 October 23, 2020, the Department received a Redetermination form completed by Petitioner. In part, Petitioner reported only herself and her child in the home. (Exhibit A, pp. 8-12)
2. On October 27, 2020, a Redetermination interview was completed with Petitioner and it was discovered that [REDACTED], the child's father, lives in the home. (Exhibit A, pp. 13-15)
3. The Department added [REDACTED] to Petitioner's FAP group as a mandatory group member because he is the child's father. (Exhibit A, pp. 3-4, 13, 16, and 28)

4. The Department utilized a report from The Work Number to verify [REDACTED] income. (Exhibit A, pp. 17-22)
5. The Department determined that Petitioner's FAP case would close because their income exceeded the program limit for the group size. (Exhibit A, p. 28)
6. On October 27, 2020, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective November 1, 2020. (Exhibit A, pp. 23-26)
7. On November 10, 2020, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 5-7)

### **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.

BEM 212 addresses FAP group composition. Parents and their children under 22 years of age who live together must be in the same group. BEM 212, October 1, 2020, p. 1. (Exhibit A, p. 16)

The gross income limit for a FAP group size of three is \$2,353.00. RFT 250, October 1, 2020, p. 1.

In this case, the Department received a Redetermination form completed by Petitioner on October 23, 2020. In part, Petitioner reported only herself and her child in the home. (Exhibit A, pp. 8-12) However, during the October 27, 2020, Redetermination interview with Petitioner, it was discovered that the child's father, [REDACTED] lives in the home. (Exhibit A, pp. 13-15) The Department added [REDACTED] to Petitioner's FAP group as a mandatory group member. (Exhibit A, pp. 3-4, 13, 16, and 28) The Department utilized a report from The Work Number to verify [REDACTED] income. (Exhibit A, pp. 17-22) The Department determined that Petitioner's FAP case would close because their income exceeded the program limit for the group size. (Exhibit A, p. 28)

The FIM testified that the Department prospected [REDACTED] income based off the earnings shown on the report from The Work Number. The Department determined the countable income was \$[REDACTED] based off the pay dates from September 25, 2020 through

October 16, 2020. This exceeded the gross income limit for a group size of three of \$2,353.00. (Exhibit A, p. 18; FIM Testimony)

Petitioner asserted there were some inaccuracies in the Department's documentation from the interview notes. Petitioner read the interview note as stating that she owns a 2011 Traverse and that [REDACTED] pays child support, rent and utilities. (Exhibit A, pp. 13-15; Petitioner Testimony) However, it appears that the interview note does not specify that Petitioner owns the vehicle, just that the FAP group's assets included the Traverse. (Exhibit A, p. 13) The FIM testified that the Department shows this vehicle belongs to [REDACTED] (FIM Testimony) Similarly, regarding the expenses, it appears that the interview note only specified that [REDACTED] pays child support and rent. The note did not specify who pays the utility expenses. (Exhibit A, p. 14)

Petitioner's testimony indicated that they no longer live with [REDACTED] He moved out a few days before Christmas. (Petitioner Testimony) However, this Administrative Law Judge must review the Department's determination based on the circumstances at that time. As discussed, Petitioner may wish to reapply for FAP and provide current information regarding the household composition.

Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for FAP. Based on the BEM 212 policy, [REDACTED] was properly added to the FAP group as a mandatory group member because he is the child's father and they were all living in the same home at that time. The Department properly verified [REDACTED] income by obtaining a report from The Work Number and considered this income when determining ongoing eligibility for the group. Petitioner's FAP group's income exceeded the applicable gross income limit based on the available information at that time.

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 determined Petitioner's eligibility for FAP.

### **DECISION AND ORDER**

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

CL/ml



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Colleen Lack  
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**

Marci Walker  
Shiawassee County DHHS – via  
electronic mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

**Petitioner**

██████████ – via first class mail

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