



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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██████████, MI ██████████

Date Mailed: August 20, 2021
MOAHR Docket No.: 21-002663
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 August 11, 2021, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Marisha Brown, Eligibility Specialist and Marlon Dorsey, Family Independence Manager (FIM).

ISSUE

Did the Department properly determine that the Petitioner had excess income for 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 ██████ ██████ 2021, the Petitioner applied for FAP benefits. Department Exhibit 1, pgs. 6-11.
2. On April 27, 2021, the Department Caseworker interviewed the Petitioner and submitted an Interview Guide where the Petitioner stated that she paid Mr. ██████████ ██████████ her child's father, rent of \$750 a month and paid the utilities for the house where he paid her child support for their child in common. Department Exhibit 1, pgs. 12-15.
3. After a FEE Investigation, the Department determined that ██████████ ██████████ was a mandatory group member and his income was required to be counted because the Petitioner and Mr. ██████████ have a child in common where he is listed as the

homeowner on the house, used the address as his own to register his four vehicles, listed as his address for his employment, three civil judgements listed that address, and the utility bills were also listed in his name. Department Exhibit 1, pg. 16.

4. On May 11, 2021, the Department sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP application was denied due to excess income because Mr. [REDACTED] was a mandatory group member, and his income was required to be counted. Department Exhibit 1, pgs. 17-21.
5. On May 21, 2021, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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, the Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2021. Department Exhibit 1, pgs. 6-11. On April 27, 2021, the Department Caseworker interviewed the Petitioner and submitted an Interview Guide where the Petitioner stated that she paid Mr. Shonta Heard, her child's father, rent of \$750 a month and paid the utilities for the house where he paid her child support for their child in common. Department Exhibit 1, pgs. 12-15.

After a FEE Investigation, the Department determined that [REDACTED] [REDACTED] was a mandatory group member and his income was required to be counted because the Petitioner and Mr. [REDACTED] have a child in common where he is listed as the homeowner on the house, used the address as his own to register his four vehicles, listed as his address for his employment, three civil judgements listed that address, and the utility bills were also listed in his name. Department Exhibit 1, pg. 16. On May 11, 2021, the Department sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP application was denied due to excess income because Mr. [REDACTED] was a mandatory group member, and his income was required to be counted. Department Exhibit 1, pgs. 17-21. On May 21, 2021, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 110, 115, 130, and 600. BEM 212, 500, 501, 503, 505, 550, 554, and 556. RFT 250, 255, and 260.

During the hearing, the Department Caseworker stated that she sent the Petitioner a Verification Checklist, DHS 3503 on April 28, 2021, that was due May 10, 2021, asking for verifications. The Verification Checklist was not included in the hearing packet and not reflected in the case notes. Department Exhibit 1, pg. 22. In addition, the Petitioner stated that Mr. [REDACTED] left the home in December 2019 due to a domestic altercation. She stated that she had court documents that he cannot be in the home. The Petitioner sent the Department Caseworker an email verification of the assault case on May 21, 2021, where she sent her an additional four document verifications. The Petitioner's verifications were also not included in the hearing packet, but they arrived after the Department denied the case.

This Administrative Law Judge finds that the Department did not meet their burden that they followed Department policies and procedures. The Fee Investigation should have been able to find out information about the court case and the child support being paid to the Petitioner that the Petitioner attested to during the hearing. If Mr. [REDACTED] is required to pay child support, then he is not in the home.

DECISION AND ORDER

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 that the Petitioner had excess income for FAP benefits.

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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP application dated [REDACTED] [REDACTED] 2021, by sending out a new Verification Checklist to determine the Petitioner's FAP eligibility.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.



CF/nr

Carmen G. Fahie
Administrative Law Judge
for Elizabeth Hertel, 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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI 49507

Kent 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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