



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 28, 2021  
MOAHR Docket No.: 21-003920  
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 September 23, 2021, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Rollin Carter, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-18.

### **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. A December 20, 2018 Order for Custody and Parenting Time shows that Petitioner was granted sole legal and physical custody of his son. (Exhibit A, pp. 11-12)
2. On [REDACTED] 2021, Petitioner applied for FAP for a household of two, Petitioner and his son. (Exhibit A, pp. 13-18)
3. On March 23, 2021, a Notice of Case Action was issued to Petitioner stating FAP was approved effective March 18, 2021, for a household size of one, Petitioner. (Exhibit A, pp. 6-10)

4. Petitioner's son is active on his mother's FAP case at a separate address. (Exhibit A, p. 1; Hearing Facilitator Testimony)
5. On July 15, 2021, Petitioner called his worker and reported that the mother of his son was illegally receiving FAP benefits for their child. (Exhibit A, p. 1)
6. On August 23, 2021, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 4-5)

### **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.

The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. However, for FAP only, the client or AHR may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600, March 1, 2021, pp. 6-7.

In this case, Petitioner applied for FAP for a household of two, Petitioner and his son on [REDACTED] 2021. (Exhibit A, pp. 13-18) Accordingly, on March 23, 2021, a Notice of Case Action was issued to Petitioner stating FAP was approved effective March 18, 2021, for a household size of one, Petitioner. (Exhibit A, pp. 6-10)

As discussed, during the hearing, there is no jurisdiction for this Administrative Law Judge (ALJ) to review the Department's March 18, 2021 determination as part of this appeal. Petitioner's hearing request indicates he filed a prior, timely hearing request to contest the March 18, 2021 determination and a hearing was scheduled for August 19, 2021 for that appeal, but Petitioner missed the hearing. (Exhibit A, p. 5) Further, Petitioner's August 23, 2021 hearing request was not filed within 90 days of the March 18, 2021 Notice of Case Action. Accordingly, there is only jurisdiction to review the current level of benefits at the time that the August 19, 2021 hearing request was filed.

The Department is to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, January 1, 2021, p. 1.

On July 15, 2021, Petitioner called his worker and reported that the mother of his son was illegally receiving FAP benefits for their child. (Exhibit A, p. 1) Petitioner's son is active on his mother's FAP case at a separate address. (Exhibit A, p. 1; Hearing Facilitator Testimony) Petitioner's case record previously had a copy of a December 20, 2018 Order for Custody and Parenting Time shows that Petitioner was granted sole legal and physical custody of his son. (Exhibit A, pp. 11-12)

Accordingly, the Department should have requested verification of Petitioner's son's residence because the Department had information that was inconsistent and contradictory regarding an eligibility factor. The Hearing Facilitator reviewed the case record, which indicated that the Department did not request verification or take any other actions.

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 because the Department failed to obtain verification when information regarding an eligibility factor, Petitioner's son's residence, was inconsistent and contradictory.

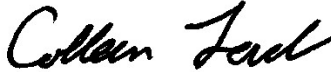
### **DECISION AND ORDER**

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. Re-determine Petitioner's eligibility for FAP retroactive to August 2021 in accordance with Department policy.

CL/ml

  
\_\_\_\_\_  
**Colleen Lack**  
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

**DHHS**

MDHHS-Saginaw-Hearings  
BSC2  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner**

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