



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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[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: December 20, 2021  
MOAHR Docket No.: 21-005528  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Janice Spodarek**

### **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 12/15/2021.

Petitioner appeared and testified unrepresented. Petitioner did not call any witnesses and did not submit any evidence.

The Department of Health and Human Services (Department) was represented by Paulina Oberero, ES Worker. Theresa Ware, FIM, testified as a witness. Department Exhibit A.25 was offered and admitted into the record.

### **ISSUE**

Did the Department properly close Petitioner's FAP case?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was a beneficiary of the FAP program.
2. In [REDACTED] the Department received an application from an individual who indicated that she resided with Petitioner in Petitioner's home. Petitioner had not previously reported this individual as residing in her home with her.

3. The Department sent a request to the MDHHS OIG to investigate Petitioner's household group.
4. On October 6, 2021, the OIG sent updated information to the county office indicating that FEE investigation revealed that Petitioner's ■■■■■-year-old son, his ■■■■■ child, and the child's mother were all residing with Petitioner 1-3 days per month.
5. A data new hire data match showed Petitioner's ■■■■■-year-old son was employed, and that his income was not reported as part of Petitioner's FAP group or budgeted.
6. The Department sent multiple inquiries to Petitioner for verifications regarding all three individuals, including requests for social security numbers, and employment income due no later than 10/25/2021. Petitioner did not deliver any of the requested verifications and did not contact the department.
7. On 10/26/2021 the Department issued a Notice of Case Action (DHS-1605) closing Petitioner's FAP case effective 12/1/2021 and ongoing on the grounds that Petitioner failed to respond to the department's verification requests.

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 department testified that under BEM 212, FAP group composition policy based on federal law requires that the FAP group contain all mandatory group members. These individuals must be added to the FAP group if they are in the household 1 day per month or more. 7 CFR 273.1. Here, Petitioner's son, who is under ■■■■■ his girlfriend, and the son's child are all mandatory group members.

Under general verification policy and procedure, when there is conflicting information, the department is mandated by federal and state law and policy to resolve the discrepancy as a condition of FAP benefits being issued. BAM 130; 7 CFR 273.2.

Here, in [REDACTED], an individual applied for welfare benefits listing Petitioner's home as her address. That individual was Petitioner's [REDACTED]-year-old son's girlfriend. An OIG investigation reported that Petitioner's son, girlfriend and child stay with Petitioner 1-3 days per month. Under group composition, these individuals must be added to Petitioner's group, and the Department is required to have all federally required verifications regarding each person's identification and income.

Evidence further shows that the department requested multiple verifications from Petitioner. Unrefuted evidence indicates that the verifications were not returned, and that Petitioner did not respond to the verification requests at all prior to the due date.

Petitioner made multiple arguments regarding when and how these individuals reside with her. However, an administrative hearing is not the time and place to discuss what Petitioner may have presented as verifications. The issue here is whether the Department complied with its policy in requesting verifications, and whether Petitioner responded to those requests. Unrefuted evidence of record is that Petitioner failed to respond.

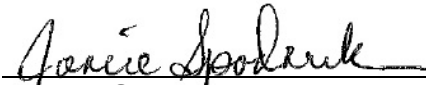
The State of Michigan can be subject to substantial financial penalties for failure to have all necessary eligibility verifications in a recipient's file. The Department's actions were in compliance with federal and state law. As such, the Department's action must be upheld.

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.

### **DECISION AND ORDER**

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

JS/ml

  
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**Janice Spodarek**  
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

**Via Email:**

MDHHS-Kalamazoo-Hearings  
BSC3  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner – Via USPS:**

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