



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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Date Mailed: April 29, 2022  
MOAHR Docket No.: 22-001224  
Agency No.: ██████████  
Petitioner: ██████████n

**ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis**

**HEARING DECISION**

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 conference hearing was held on Wednesday, April 20, 2022, from Lansing, Michigan. Petitioner appeared and testified on her on behalf. The Department of Health and Human Services (Department) was represented by Kimberly Watts, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility beginning October 2021?

**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 times relevant to this matter, Petitioner was a FAP recipient with a household of five.
2. On October 4, 2021, a redetermination form, requesting needed verification by October 24, 2021, was mailed to Petitioner. (Department Exhibit A)
3. On October 22, 2022, Petitioner submitted the completed redetermination form along with verifications, and she submitted additional verification in November 2022.
4. Petitioner was not contacted by the Department regarding her FAP redetermination or continued eligibility until January 14, 2022, the date her FAP interview was conducted.

5. On January 14, 2022, the Department sent Petitioner a Notice of Case Action, stating that she was approved for an \$83.00 FAP allotment effective December 2021; a \$198.00 FAP allotment effective January 2022; and a \$328.00 FAP allotment effective February 2022 through November 2022. (Department Exhibit D)

### **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 argued that the Department failed to properly determine her FAP allotment beginning October 2021, and the Department refused to respond to her requests for information about her FAP case.

The Department's FAP eligibility determination cannot be upheld. The Department representative acknowledged that there was an unreasonable delay in determining Petitioner's FAP eligibility at redetermination. Additionally, the Department failed to go forward and provide the necessary evidence to establish that it properly determined Petitioner's FAP eligibility retro to October 2021. Therefore, the Department must redetermine Petitioner's FAP eligibility beginning October 2021.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department failed to properly determine Petitioner's FAP eligibility beginning October 2021.

**IT IS THEREFORE ORDERED** that:

1. The Department 's FAP eligibility determination is **REVERSED**.
2. The Department shall start redetermining Petitioner's FAP eligibility beginning October 2021, in accordance with Department policy and consistent with this hearing decision, within 10 days of the date of mailing of this decision and order, and issue any retro FAP benefit Petitioner is otherwise eligible to receive.



MN-D/dh

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**Marya Nelson-Davis**  
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

**Sent via Email:**

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