



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 23, 2022
MOAHR Docket No.: 22-001830
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 June 21, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Petitioner is the mother of two children, including Child A. The father of Child A is [REDACTED]
2. On or around [REDACTED] 2022, Petitioner submitted an application requesting FAP benefits and identified herself and her two children as household members.
3. In connection with the application, the Department completed an address clearance and determined that in August 2021, [REDACTED] was approved for Medical Assistance (MA) and has since then, had an active MA case with the Department and had reported that he lived at Petitioner's home address.
4. According to information obtained from the Work Number, on or around [REDACTED] 2022, [REDACTED] gained employment and reported that his address

was [REDACTED] MI [REDACTED] (Petitioner's home address). (Exhibit A, pp. 20-22)

5. During an application interview, Petitioner reported that [REDACTED] does not live in her home. (Exhibit A, pp.6-9)
6. The Department concluded that [REDACTED] lived in Petitioner's household and included him as a mandatory member of the FAP group, as he was the father of her child.
7. On or around [REDACTED] 2022, the Department sent Petitioner a Notice of Case Action, advising her that [REDACTED] was included in the household and that her [REDACTED] 2022, FAP application was denied due to excess income. (Exhibit A, pp. 12-15)
8. On or around [REDACTED] 2022, Petitioner requested a hearing disputing the Department's denial of her FAP application. (Exhibit A, pp. 3-4)

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 requested a hearing disputing the Department's denial of her [REDACTED] 2022, FAP application. Petitioner did not dispute that at the time of the application, she was receiving [REDACTED] in monthly Retirement Survivors Disability Insurance (RSDI) benefits and that the father of Child A, [REDACTED] was employed and earning income as reflected in the Work Number. At issue, was the inclusion of [REDACTED] as a household group member for FAP purposes and the consideration of his income towards Petitioner's FAP eligibility.

The Department will determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. FAP group composition is established by determining who lives together, the relationships of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person resides in an eligible living situation. BEM 212 (January 2022), p. 1. The relationships of the people who live together affects

whether they must be included or excluded from the group. Mandatory group members must be included in the group, regardless of whether they purchase or prepare food together or separately. Parents and their children under 22 years of age who live together **must** be in the same group regardless of whether the children have their own spouse or child who lives with the group and regardless of whether they purchase and prepare food together. BEM 212, pp. 1-2. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom, or living room. BEM 212, p. 3.

At the hearing, the Department testified that although Petitioner reported during her application interview that [REDACTED] was not living in her home, based on the information the Department obtained from the Work Number and [REDACTED] active MA case with the Department reflecting Petitioner's home address as his own, the Department concluded that he was a member of Petitioner's household, and thus considered his income towards Petitioner's FAP eligibility.

During the hearing, Petitioner confirmed [REDACTED] was previously living in her home; however, he moved out of her home in [REDACTED] 2022 and has not returned to live with her since that time. Petitioner testified that in [REDACTED] 2022, she signed a new lease that only has her name on it. It was unclear whether [REDACTED] was previously on the lease agreement prior to [REDACTED] 2022. The Department confirmed that it did not request that Petitioner submit a shelter verification or the lease agreement and conceded that it did not make any collateral contact with [REDACTED] to determine his new or current address. The Department testified that in cases where group composition is at issue, the Department's usual practice is to refer the matter to the Office of Inspector General for a Front-End Eligibility Investigation to be completed which would possibly include a home visit to Petitioner's residence to verify the household membership. The Department conceded that this was not done prior to including [REDACTED] as a household member. Department policy provides that before determining eligibility, the Department is to give the client a reasonable opportunity to resolve any discrepancy between her statements and information obtained from another source, in this case the address information obtained from the Work Number and Bridges. See BAM 130 (January 2022), p.9.

There was no evidence that prior to relying on information that could potentially be outdated, the Department provided Petitioner a reasonable opportunity to resolve the discrepancies with respect to her household composition as required. As such, 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 included [REDACTED] as a member of Petitioner's household and considered his income towards her FAP eligibility.


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. Register and process Petitioner's [REDACTED] 2022, FAP application to determine the household's eligibility for FAP benefits from the application date, ongoing;
1. If eligible, Issue FAP supplements to Petitioner for any benefits her household was eligible to receive but did not from the application date, ongoing; and
2. Notify Petitioner in writing of its decision.

ZB/ml


Zainab A. Baydoun
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-Electronic Mail :

DHHS
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings

Interested Parties

BSC4
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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