



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 23, 2022
MOAHR Docket No.: 22-003213
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on August 22, 2022 via teleconference. Petitioner appeared and represented herself. Candice Benns, Hearings Facilitator, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner's 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 was an ongoing recipient of FAP benefits.
2. On June 27, 2022, MDHHS sent a New Hire Client Notice to Petitioner, indicating that household member, ██████████ (Partner), had employment at the ██████████ (Exhibit A, p. 16).
3. On ██████████ 2022, Petitioner submitted a FAP Renewal to MDHHS (Exhibit A, p. 5). Petitioner indicated that she had a household of six, and that she was receiving unemployment compensation benefits (UCB) and child support (Exhibit A, pp. 5-6).
4. On July 19, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that her FAP benefits would be terminated, effective August 1, 2022 ongoing (Exhibit A, p. 23). MDHHS determined that the household exceeded the income limit for the program (Exhibit A, p. 24).

5. On [REDACTED] 2022, Petitioner filed a Request for Hearing, disputing the closure of her FAP case (Exhibit A, p. 28).

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. MDHHS 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, MDHHS closed Petitioner's FAP case after determining that the household was over the income limit for a household-size of six. Petitioner disputed MDHHS' determination.

To determine whether MDHHS properly calculated Petitioner's household income, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS determined that the household was over the income limit for FAP based on Partner's earned income, and Petitioner's unearned income from unemployment compensation benefits (UCB) and child support.

Petitioner objected to Partner's earned income being included in the benefit calculation. She testified that they were "not together" and that she did not have access to his income. However, she also testified that they were living together in the same household unit and that they have children in common. Parents and their children under age 22 who live together must be in the same FAP group. BEM 212 (January 2022), p. 1. MDHHS properly included Partner in Petitioner's FAP group because he lives in the same housing unit as his minor children and is a mandatory group member. Therefore, his income must be included in the FAP budget calculation. MDHHS determined that Partner earns \$[REDACTED] monthly from employment with the [REDACTED]. Petitioner did not dispute this amount.

Regarding unearned income, MDHHS presented evidence that Petitioner was receiving [REDACTED] in UCB per week (Exhibit A, p. 8). MDHHS is required to convert weekly payments to a standard monthly amount by multiplying the monthly income by 4.3. BEM 505 (November 2021), p. 8. Petitioner's weekly UCB payment of \$[REDACTED] multiplied by 4.3 equals \$[REDACTED]. Regarding Petitioner's child support income, MDHHS testified that the child support income was irregular and that it budgeted \$[REDACTED] per month in child support income. Petitioner did not dispute this amount. Adding together the unearned income from UCB and child support equals \$[REDACTED]. However, the record

shows that MDHHS budgeted [REDACTED] in unearned income for the household (Exhibit A, p. 20). At the hearing, MDHHS could not explain the discrepancy. Therefore, MDHHS has failed to show that it properly calculated Petitioner's household income.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reinstate Petitioner's FAP case, effective August 1, 2022 ongoing;
2. Redetermine Petitioner's eligibility for FAP benefits, effective August 1, 2022 ongoing;
3. If Petitioner is eligible for supplements, issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not from August 1, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
Administrative Law Judge

