



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: October 20, 2022  
MOAHR Docket No.: 22-004179  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 October 19, 2022, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Gwendolyn Manning, Family Independence Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

### **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 FIP and FAP recipient.
2. Petitioner's FIP and FAP eligibility was reviewed by the Department.
3. Petitioner's household consisted of herself and her three minor children.
4. Petitioner's children had income from employment.

5. On July 19, 2022, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective July 1, 2022, ongoing, and that she was eligible for FAP benefits in the amount of [REDACTED] per month effective September 1, 2022, ongoing.
6. On [REDACTED] 2022, Petitioner submitted a request for hearing disputing the Department's actions.

### **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, Petitioner was an ongoing FIP and FAP recipient. Petitioner's household consisted of herself and her three minor children. Petitioner's FIP and FAP eligibility was reviewed. The Department included Petitioner's minor children's earned income in the FIP and FAP budgets, resulting in the closure of Petitioner's FIP benefit case and a decrease in her FAP benefit amount.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department disregards the earnings of an individual who is: (i) under age 18; (ii) attending elementary, middle or high school; and (iii) living with someone who provides care or supervision.

At the hearing, the Department conceded that it erred when it included Petitioner's minor children's earned income in the FIP and FAP budgets. Per policy, Petitioner's children's income should be disregarded. Therefore, the Department failed to properly

follow policy when it closed Petitioner's FIP benefit case and determined her FAP eligibility.

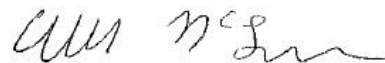
**DECISION AND ORDER**

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 closed Petitioner's FIP benefit case and determined Petitioner's FAP eligibility. 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. Redetermine Petitioner's FAP eligibility as of September 1, 2022, ongoing;
2. Redetermine Petitioner's FIP eligibility as of July 1, 2022, ongoing;
3. If Petitioner is eligible for additional FIP and FAP benefits, issue supplements she is entitled to receive; and
4. Notify Petitioner of its decision in writing.

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**Ellen McLemore**  
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**  
Richard Latimore  
Wayne-Conner-DHHS  
4733 Conner  
Detroit, MI 48215  
**MDHHS-Wayne-57-  
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**Interested Parties**

B. Sanborn  
M. Schoch  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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