



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: January 6, 2023  
MOAHR Docket No.: 22-005140  
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 December 7, 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 process Petitioner's Food Assistance Program (FAP) benefits and deny her application for Family Independence Program (FIP) 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. On or around [REDACTED] 2022, Petitioner submitted an application requesting FAP and FIP benefits for her two grandchildren who were now living in her home. (Exhibit A, pp. 4-12)
2. Prior to this application, the children had been receiving FAP benefits from the Department and were actively receiving assistance and included in the FAP household of [REDACTED]
3. On October 27, 2022, the Department sent Petitioner a Notice of Case Action advising her that her FIP application was denied on the basis that the group's countable earnings exceed the application income limit for the program (Exhibit A, pp. 13-16)

4. On November 10, 2022, the Department sent Petitioner a Notice of Case Action advising her that her FAP benefits were continued for a household size of one but FAP benefits for the two grandchildren were denied because the children were eligible for FAP in another case. (Exhibit A, pp. 17-21)
5. Petitioner requested a hearing disputing the Department's actions with respect to the FIP and FAP benefits for the children. (Exhibit A, p.3)

### **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 requested a hearing disputing the Department's actions with respect to the FAP and FIP. Petitioner asserted that at the time of her application in [REDACTED] 2022, her two grandchildren were living in her home, and she applied for FAP and FIP benefits on their behalf. The Department confirmed receiving a letter authored by the children's mother dated October 7, 2022, and indicating that the children were living with Petitioner and giving Petitioner authorization to enroll the children in school using Petitioner's address.

The Department further confirmed that upon receiving the FAP application, the Department should have determined who the primary caretaker of the children was, whose household they were living in, and whose FAP case they should have been included on. The Department representative testified that the Department should have contacted the caseworker assigned to [REDACTED] and had the children removed from [REDACTED] case and added to Petitioner's. There was no evidence presented that the Department properly reevaluated the primary caretaker status at the time of Petitioner's FAP application as required in BEM 212.

With respect to the denial of the FIP application, the Department representative testified that Petitioner's household had income in excess of the application limit. However, upon review, the Department acknowledged that Petitioner should have been considered an ineligible grantee and her income should not have been countable. See BEM 210;RFT 210. Thus, the Department conceded that Petitioner's [REDACTED] 2022 FIP application was improperly denied.

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 processed Petitioner's FAP benefits and denied her FIP application.

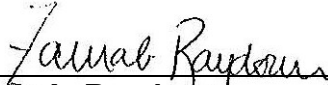
### **DECISION AND ORDER**

Accordingly, the Department's FAP and FIP decisions are **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 reprocess the [REDACTED] 2022, FAP and FIP application for Petitioner's grandchildren;
2. Take the appropriate administrative actions to determine the family composition and primary caretaker of the children in order to accurately determine the correct FAP and FIP households;
3. Issue supplements to Petitioner for any FAP and FIP benefits that the children were entitled to receive but did not from the application date, ongoing; and
4. Notify Petitioner in writing of its decision.

ZB/ml

  
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**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  
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**Interested Parties**

BSC4  
M Holden  
D Sweeney  
B Sanborn  
MOAHR

**Via First Class Mail :**

**Petitioner**

[REDACTED]  
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