



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: December 22, 2022
MOAHR Docket No.: 22-005364
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 15, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Linda Scupholm, Hearing Facilitator (HF); Amanda Boobyer, Assistance Payments (AP) Supervisor; and Pamela Ganey, Eligibility Specialist (ES).

During the hearing proceeding the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-30.

ISSUE

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

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 receiving FAP for a household size of one, herself. (Exhibit A, pp. 3 and 13-14)
2. On October 31, 2022, Petitioner called to report changes in her household, including a change of address and the adoption of her two grandchildren. (Exhibit A, p. 3)

3. The Department verified the end of foster care payments and the beginning of adoption subsidy payments. (Exhibit A, pp. 4-7)
4. The Department re-determined eligibility for FAP for the household size of three, Petitioner and her adopted children. (Exhibit A, pp. 3, 15-16, and 20-22)
5. On November 2, 2022, a Notice of Case Action was issued to Petitioner closing FAP effective December 1, 2022, based on net income in excess of the program limit. (Exhibit A, pp. 8-12)
6. On November 9, 2022, Petitioner filed a hearing request contesting the Department's determination. (Exhibit 1, pp. 1-8)

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.

The BEM 212 policy addressing FAP group composition states:

Parents and Children

Children include natural, step and adopted children.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group.

BEM 212, January 1, 2022, p. 1.

The BEM 503 policy addressing child foster care payments states:

FAP only

Bridges counts these payments as the unearned income of the foster child who has a FAP program request status of yes.

Reminder: A foster parent may choose whether or not to request FAP on behalf of a foster child. When FAP program request status for foster child is no, Bridges does not consider the child's needs or income in the FAP eligibility determination: see BEM 212, Foster Children, for details.

BEM 503, October 1, 2022, p. 5

The BEM 503 policy addressing adoption subsidy payment states:

ADOPTION SUBSIDIES

Family Independence Program (FIP), State Disability Assistance (SDA), Refugee Cash Assistance Program (RCA), Child Development and Care (CDC) and Food Assistance Program (FAP)

An adoption subsidy is a payment to the adopting parent(s) of an adopted child who would remain in foster care without the subsidy incentive. There are two types of adoption subsidies:

Support Subsidy

- A support subsidy is a payment for ongoing care and support of the child. Bridges includes support subsidies as income.

Medical Subsidy

- A medical subsidy is a payment for medical expenses due to a physical, mental or emotional condition of the child. Bridges excludes medical subsidies as income. They are reimbursements.

BEM 503, October 1, 2022, pp. 2-3

In this case, the Department properly redetermined Petitioner's eligibility for FAP after Petitioner reported changes with her address and the adoption of her grandchildren. Petitioner was previously fostering her grandchildren. As indicated in the BEM 503 policy, clients can choose not to include foster children in their FAP group, which results in the foster care payments not being considered in the FAP budget. (Exhibit A, pp. 13-14)


When Petitioner adopted her grandchildren, the children were mandatory FAP group members, and the adoption subsidy payments must be considered in the FAP budget pursuant to the BEM 212 and BEM 503 policies. The updated FAP budget for the household of three was reviewed with Petitioner during the hearing and Petitioner indicated it was correct. (Exhibit A, pp. 15-16; Petitioner Testimony) Accordingly, the closure of Petitioner's FAP case based on income in excess of program limits must be upheld.

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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



Colleen Lack
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
Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
**MDHHS-Calhoun-
Hearings@michigan.gov**

Interested Parties

BSC3
M Holden
D Sweeney
MOAHR

Via First Class Mail :

Petitioner

██████████
██████████
██████████ MI ██████████