



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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Date Mailed: February 17, 2023
MOAHR Docket No.: 23-000117
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 February 7, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Jasmine Alexander, Assistance Payments Supervisor (APS) and Sara Vandernat, Assistance Payments Worker (APW).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-53.

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. On November 28, 2022, Petitioner submitted a Redetermination for FAP. Petitioner reported that: her daughter was a household member; her daughter was no longer working at [REDACTED] and had just started work at [REDACTED] and her daughter buys and makes food separately from the rest of the household. (Exhibit A, pp. 5-9)
2. Petitioner's daughter's date of birth is [REDACTED] 2002. (Exhibit A, p. 6)
3. On December 1, 2022, a telephone interview was completed with Petitioner. It was noted that Petitioner's daughter was a mandatory FAP group member. The APW

understood that: Petitioner's daughter graduated the 12th grade and was attending college; Petitioner did not know any information about her daughter's school; and Petitioner's daughter was working at [REDACTED] Petitioner indicated the Department could utilize The Work Number to verify her daughter's pay record. (Exhibit A, pp. 10-16; APW Testimony)

4. A report from The Work Number documented that Petitioner's daughter was working less than 20 hours per week. (Exhibit A, pp. 17-19)
5. Petitioner's daughter did not meet student status requirements and could not be included in the January 2022 FAP budget. (Exhibit A, pp. 2 and 36-38)
6. On December 28, 2022, a Notice of Case Action was issued approving FAP for a household size of one for Petitioner in the amount of \$281.00 per month. In the comments section the APW explained that Petitioner's daughter was listed as an ineligible student as policy requires anyone enrolled in junior college or higher to maintain employment with 20 hours or more each week. The budget summary showed that no income was included in the FAP budget. (Exhibit A, pp. 20-24)
7. On January 5, 2023, Petitioner verbally requested a hearing contesting the FAP determination. (Exhibit A, p. 4)
8. On January 5, 2023, it was reported that Petitioner's daughter was working more than 20 hours per week and was attending an alternative high school at Success Alternative. Petitioner's daughter's employment hours were verified utilizing The Work Number. Petitioner's daughter was considered an eligible student; therefore her income was included in the FAP budget for a household size of two. (Exhibit A, pp. 28 and 39-44)
9. On January 5, 2023, a Notice of Case Action was issued approving FAP for a household size of two for Petitioner and her daughter in the amount of \$98.00 for January 2023 and \$243.00 per month for February 2023 through December 2023. The budget summary showed that earned income of \$1,606.00 was included in the FAP budget. (Exhibit A, pp. 47-51)

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.

For FAP, parents and their children under 22 years of age who live together must be in the same group. BEM 212, January 1, 2022, p. 1.

For FAP, a person enrolled in a post-secondary education program may be in student status, as defined in BEM 245 policy. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, April 1, 2021, p. 2. This criteria would include a person enrolled half time or more at a college or university that offers degree programs and is employed for at least an average of 20 hours per week of paid employment. BEM 245, pp. 3-6.

Petitioner's daughter's date of birth is [REDACTED] 2002. (Exhibit A, p. 6).

On November 28, 2022, Petitioner submitted a Redetermination for FAP. Petitioner reported that: her daughter was a household member; her daughter was no longer working at [REDACTED] and had just started work at [REDACTED] and her daughter buys and makes food separately from the rest of the household. (Exhibit A, pp. 5-9).

On December 1, 2022, a telephone interview was completed with Petitioner. It was noted that Petitioner's daughter was a mandatory FAP group member. The APW understood that: Petitioner's daughter graduated the 12th grade and was attending college; Petitioner did not know any information about her daughter's school; and Petitioner's daughter was working at [REDACTED]. Petitioner indicated the Department could utilize The Work Number to verify her daughter's pay record. (Exhibit A, pp. 10-16; APW Testimony). A report from The Work Number documented that Petitioner's daughter was working less than 20 hours per week. (Exhibit A, pp. 17-19). Accordingly, Petitioner's daughter did not meet student status requirements and could not be included in the January 2022 FAP budget. (Exhibit A, pp. 2 and 36-38). On December 28, 2022, a Notice of Case Action was issued approving FAP for a household size of one for Petitioner in the amount of \$281.00 per month. In the comments section the APW explained that Petitioner's daughter was listed as an ineligible student as policy requires anyone enrolled in junior college or higher to maintain employment with 20 hours or more each week. The budget summary showed that no income was included in the FAP budget. (Exhibit A, pp. 20-24).

On January 5, 2023, it was reported that Petitioner's daughter was working more than 20 hours per week and was attending an alternative high school at Success Alternative. Petitioner's daughter's employment hours were verified utilizing The Work Number. Petitioner's daughter was considered an eligible student; therefore her income was included in the FAP budget for a household size of two. (Exhibit A, pp. 28 and 39-44). On January 5, 2023, a Notice of Case Action was issued approving FAP for a household size of two for Petitioner and her daughter in the amount of \$98.00 for January 2023 and \$243.00 per month for February 2023 through December 2023. The

budget summary showed that earned income of \$1,606.00 was included in the FAP budget. (Exhibit A, pp. 47-51).

Petitioner asserted that she never reported her daughter was in college and she asked them to call the school for any needed information. (Petitioner Testimony). The APW's testimony indicated Petitioner answered yes to the standard interview question regarding whether any household member was attending college or vocational programs. When the APW asked for any information about the school, Petitioner indicated she was not sure, but the APW could contact the school. However, no information about the school was provided so that the Department could contact them. (APW Testimony).

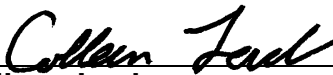
The FAP budget, as updated to include Petitioner's daughter as an eligible FAP group member, was reviewed with Petitioner during the hearing proceeding. Petitioner indicated there had been a change in her rent. However, Petitioner acknowledged that she did not have verification of the rent increase. (Petitioner Testimony).

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 based on the information available at the time of each determination.

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 :

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Interested Parties
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