



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: February 16, 2023  
MOAHR Docket No.: 23-000151  
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 February 8, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Stephanie Wallingford, Family Independence Specialist and Jill Kotchi, PATH Liaison Michigan Works.

**ISSUE**

Did the Department properly process Petitioner's Food Assistance Program (FAP) benefits and close her Family Independence Program (FIP) case?

**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 and FIP benefits.
2. Petitioner's FIP group includes herself, her one child, and her three minor siblings.
3. Petitioner was previously deferred from participation in the Partnership. Accountability. Training. Hope. (PATH) program.
4. On or around November 7, 2022, Petitioner requested to have her deferral end, as she was starting employment at [REDACTED]
5. On or around November 22, 2022, a PATH Liaison informed the Department that a collateral contact was made with Petitioner's new employer, who reported that Petitioner's start date was November 7, 2022, that her rate of pay was [REDACTED] per

hour and that she worked 40 hours per week. Petitioner was to be paid every two weeks and her first check was received on November 18, 2022.

6. On or around December 9, 2022, the Department sent Petitioner a Notice of Case Action, advising her that her FIP case would be closed effective January 1, 2023, because her income exceeded the income limit.
7. On January 11, 2023, Petitioner requested a hearing disputing the Department's actions with respect to her FIP and FAP cases.
8. Petitioner verbally withdrew her request for hearing regarding the FAP. Petitioner confirmed that the issue has been resolved and she is satisfied with the Department's actions. Petitioner also confirmed that no promises were made in exchange with her withdrawal. Thus, the hearing request with respect to the FAP will be DISMISSED.

### **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.

In this case, Petitioner disputed the closure of her FIP case effective January 1, 2023, and the Department's finding that her income exceeded the income limit. In order to receive FIP benefits, financial need must exist. Financial need is established, in part, when a client passes the qualifying deficit test and/or the issuance deficit test. Need is determined to exist when budgetable income is less than the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 518 (January 2023), pp. 1-6; BEM 515 (January 2022), pp. 1-5. The Department properly applied a payment standard of \$694 based on Petitioner's five person household size. Because Petitioner, as the grantee, is a member of the certified group, her income is considered for all members in the household. See BEM 210 (July 2021); BEM 515; RFT 210 (April 2017).

The Department representative testified that in calculating Petitioner's earned income of \$2,752, it considered her new employment with [REDACTED] and the information provided by PATH Liaison, specifically considering full-time employment of 40 hours weekly and pay rate of pay of [REDACTED] per hour, as well as a biweekly frequency of pay. The Department representative testified that Petitioner's full-time income was prospectively budgeted, as

it was expected to continue. Petitioner disputed that she was employed full-time and testified that she participated in one week of full-time training and her hours were reduced to part-time, 20 to 25 hours per week. Petitioner asserted that from November 7, 2022, through November 17, 2022, she participated in orientation full-time and the pay stubs she subsequently received on December 2, 2022, December 16, 2022, and December 30, 2022, all reflected part-time pay. Petitioner testified that she provided the pay stubs to the Department and during the hearing, the Department confirmed receiving pay stubs from Petitioner on December 27, 2022, and January 12, 2023. The pay stubs were reviewed during the hearing and the Department confirmed that the pay stubs reflected part-time hours and part-time pay.

After some inquiry, the PATH Liaison present for the hearing confirmed that the program had been notified by Petitioner's employer [REDACTED] that although Petitioner would initially work full time for orientation/training, the hours would be reduced after November 26, 2022, when the orientation period was supposed to end. Although the PATH Liaison asserted that Petitioner started new employment with [REDACTED] on November 28, 2022, the evidence showed that the Department did not consider these earnings when making the excess income determination and instead, budgeted continued full-time earnings from [REDACTED]. Additionally, Petitioner disputed that her start date at [REDACTED] was November 28, 2022 and asserted that she began part-time employment with [REDACTED] on January 3, 2023, after her employment with [REDACTED] had ended.

Upon review, because the Department was aware that Petitioner's full-time hours were not expected to continue after the orientation period ended, the Department did not act in accordance with Department policy when it continued to prospectively budget full-time earnings from Petitioner's employment with [REDACTED]. Because the Department has verification of Petitioner's actual earnings, the Department shall recalculate the FIP budget using the correct and accurate income information.

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 case due to excess income.

### **DECISION AND ORDER**

Accordingly, the hearing request with respect to the FAP is **DISMISSED** and the Department's FIP 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. Reinstate Petitioner's FIP case effective January 1, 2023;

2. Recalculate Petitioner's FIP budget using her actual earnings to determine her eligibility for FIP benefits from January 1, 2023, ongoing;
3. Issue FIP supplements to Petitioner for any benefits her household was eligible to receive, if any, but did not from January 1, 2023, 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**  
Chelsea McCune  
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**Interested Parties**  
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**M Holden**  
**D Sweeney**  
**G Vail**  
**B Sanborn**  
**MOAHR**

**Via First Class Mail :**

**Petitioner**  
[REDACTED]  
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