



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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██████████, MI ██████████

Date Mailed: July 28, 2023  
MOAHR Docket No.: 23-003461  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 hearing was held on July 19, 2023 via teleconference. Petitioner appeared and represented herself. ██████████ appeared as a witness for Petitioner. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

**ISSUES**

1. Did MDHHS properly deny Petitioner's application for Family Independence Program (FIP)/cash assistance?
2. Did MDHHS properly close Petitioner's Food Assistance Program (FAP) 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. Petitioner was an ongoing recipient of FAP benefits.
2. On May 1, 2023, Petitioner applied for FIP benefits.
3. On May 16, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of wages for Petitioner and two other household members by the deadline of May 16, 2023 (Exhibit A, pp. 15-16). The VCL also requested certified copies of Petitioner's income tax return for 2022 (Exhibit A, p. 15).

4. On June 1, 2023, MDHHS sent Petitioner a Notice of Case Action that indicated that her application for FIP was denied and her FAP case was closed, effective July 1, 2023 ongoing (Exhibit A, p. 7). The reason given for the FAP closure was that Petitioner failed to return the requested verifications regarding household income (Exhibit A, p. 8).
5. On June 20, 2023, Petitioner filed a Request for a Hearing to dispute MDHHS' decision to deny her application for FIP and close her FAP case (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. MDHHS 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, MDHHS denied Petitioner's application for FIP and terminated her ongoing FAP benefits. At the hearing, MDHHS testified that it received information that Petitioner moved into her mother's house and that she failed to submit verification of household income for all the household members. MDHHS further testified that Petitioner's FIP application was denied in error because MDHHS determined that Petitioner had reached the federal time-limit for FIP. Petitioner disputed MDHHS' determination and explained that she was homeless at the time of application and used her mother's address as a mailing address.

FIP is a cash assistance program designed to help individuals and families become self-sufficient. BEM 209 (January 2022), p. 1. Temporary Assistance to Needy Families (TANF) is the federal grant that funds the majority of FIP benefits issued by MDHHS. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits unless they are eligible for an exemption to the federal time limit. BEM 234 (July 2013), p. 1. Each

month an individual receives federally funded FIP, the individual receives a count of one month. A family is ineligible when a mandatory member of the FIP Eligibility Determination Group (EDG) reaches the 60-month federal time limit. *Id.*, pp. 1-2. MDHHS must determine which individuals living together are included in the FIP EDG. BEM 210 (July 2021), p. 1. The group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker, and the group cannot include an adult who has include more than 60 TANF funded months, beginning October 1, 1996 or any other FIP time limits. *Id.*

Here, MDHHS stated that it denied Petitioner's application for FIP because it included Petitioner's mother as a mandatory group member and Petitioner's mother had reached the time limit for FIP. However, MDHHS did not submit a Federal TANF Time Limit counter or a Michigan FIP Time Limit counter to show the countable months Petitioner or Petitioner's mother received FIP benefits. Additionally, MDHHS did not present sufficient evidence to show that Petitioner's mother was a mandatory EDG member. Petitioner and Petitioner's mother, who appeared a witness, provided testimony that Petitioner was not living in her mother's household at the time, and that she only used her mother's address as a mailing address.

For FAP, MDHHS sent Petitioner a VCL to verify earned income received from members of her mother's household. MDHHS must determine the FAP group composition in order to verify eligibility for benefits. To determine FAP group composition, MDHHS considers (i) who lives together; (ii) the relationships of the people who live together; (iii) whether the people living together prepare food together; and (iv) whether the person resides in a special living situation which requires the consideration of other factors. BEM 212 (January 2022), p. 1. Living together means sharing a home where family members usually sleep and share any common living quarters, excluding access areas such as an entrance or hallway or a laundry area. *Id.*, p. 3.

As described above, Petitioner testified that she was not living in her mother's household. MDHHS did not provide any evidence to the contrary. Therefore, MDHHS improperly determined Petitioner's group size when it included Petitioner's mother and other members of Petitioner's mother's household in Petitioner's FAP group. There was no evidence presented that Petitioner was living with these individuals. Because these individuals were not part of Petitioner's FAP group, requesting their income information was unnecessary.

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 MDHHS did not act in accordance with Department policy when it denied Petitioner's FIP application and terminated Petitioner's FAP benefits.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reregister and reprocess Petitioner's May 1, 2023 FIP application;
2. Issue supplemental payments to Petitioner for any FIP benefits that she was eligible to receive, but did not, from May 1, 2023 ongoing;
3. Reinstate Petitioner's FAP case, effective July 1, 2023 ongoing, and redetermine Petitioner's group size;
4. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from July 1, 2023 ongoing; and
5. Notify Petitioner of its decision(s) in writing.

LJ/tm



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**Linda Jordan**  
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  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
**MDHHS-Wayne-19-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
G. Vail  
BSC4

**Via-First Class Mail :**

**Petitioner**

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