



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: August 15, 2023
MOAHR Docket No.: 23-004109
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 August 10, 2023, via conference line. Petitioner's husband, ██████████ was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Lianne Stupholm, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit eligibility for June and July 2023?

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 FAP recipient.
2. On June 29, 2023, Petitioner completed a semi-annual related to her FAP benefit case. Petitioner also submitted verification of employment at her new job with Subway (Exhibit A, pp. 7-13). Additionally, Petitioner reported that she was no longer working at Bickford Senior Living.
3. On June 30, 2023, the Department sent Petitioner a Verification Checklist (VCL) and an Employment Verification form, requesting verification of the end of Petitioner's employment at Bickford (Exhibit A, pp. 14-19).

4. On July 6, 2023, the Department received verification of the loss of Petitioner's employment at Bickford (Exhibit A, pp. 20-21). Petitioner's last paycheck was received on May 12, 2023.
5. On July 14, 2023, the Department sent Petitioner a Notice of Case Action informing her of her FAP benefit rate effective August 1, 2023, ongoing (Exhibit A, pp. 28-32).
6. On July 13, 2023, Petitioner's husband requested a hearing to dispute the Department's actions regarding his June and July 2023 FAP benefit amounts.

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.

In this case, the Department testified that during the months of June and July 2023, Petitioner's income from Bickford was included the FAP budget. The Department testified that Petitioner did not inform the Department of the employment change until June 29, 2023, when the semi-annual was submitted. The Department stated that Petitioner did not verify the employment change until July 6, 2023. Therefore, the change was not processed to take effect until August 1, 2023.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (October 2022), p. 11. For stopping income, the Department will budget the final income expected to be received in the benefit month. BEM 505, p. 8. The Department will use the best available information to determine the amount of the last check expected. BEM 505, p. 8. The Department will use information from the source and from the client. BEM 505, p. 8. The Department must verify income changes that result in a benefit increase or when change information is unclear, inconsistent or questionable BEM 505, p. 14.

At the hearing, Petitioner's husband stated that he initially returned his semi-annual, along with a letter from Petitioner's employer, verifying her loss of employment on or around May 15, 2023. Petitioner's husband testified that he later learned the

Department did not receive the semi-annual during a conversation that occurred on June 14, 2023. Petitioner's husband stated that he notified the Department at that time of Petitioner's change in employment. Petitioner's husband testified that he was informed by the Department that if he submitted his semi-annual by June 30, 2023, the changes would be retroactively applied. Petitioner resubmitted the semi-annual and it was received by the Department on June 29, 2023.

Upon review of the case comments provided by the Department, Petitioner's husband did inquire on June 14, 2023, as to whether his semi-annual had been received. Per the case comments, the semi-annual was not in Petitioner's Electronic Case File (ECF). However, the Department did not provide Petitioner's ECF for the undersigned Administrative Law Judge to independently verify the Department's assertion. Additionally, the individual that processed the case and spoke with Petitioner's husband was not present at the hearing to testify. Therefore, the Department failed to establish that Petitioner did not report the loss of income until June 29, 2023, and the income loss is to be considered as reported and verified as of May 15, 2023. Thus, Petitioner timely reported the loss of income from Bickford, and it should not have been included in the FAP budget for June and July 2023. As it follows, the Department did not properly determine Petitioner's FAP eligibility for June and July 2023.

DECISION AND ORDER

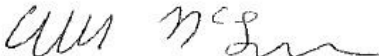
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP eligibility for June and July 2023.

Accordingly, the Department's 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. Redetermine Petitioner's FAP eligibility for June and July 2023;
2. If Petitioner is eligible for additional FAP benefits, issue supplements in accordance with Department policy;
3. Notify Petitioner of decision in writing.

EM/tm



Ellen McLemore
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

M. Holden
D. Sweeney
BSC3

Via-First Class Mail :

Petitioner

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