



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: October 27, 2023  
MOAHR Docket No.: 23-005826  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 October 18, 2023, via teleconference. Petitioner appeared and represented herself. [REDACTED] [REDACTED] appeared as a witness for Petitioner. Juanita Munoz, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly terminate 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 July 18, 2023, Petitioner returned a Redetermination for FAP (Exhibit A, p. 13). Petitioner indicated that her minor child, [REDACTED] [REDACTED] (Minor Child) had a disability and that Minor Child received Supplemental Security Income (SSI) (Exhibit A, p. 14).
3. On August 11, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP case would be closed, effective September 1, 2023, because the group's net income exceeded the income limit for the program (Exhibit A, pp. 7-9).

4. On September 14, 2023, Petitioner filed a Request for Hearing to dispute MDHHS' determination regarding her FAP benefits (Exhibit A, pp. 4-6).

### **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. MDHHS 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 closed Petitioner's FAP case because it determined that she was over the net income limit for the program. Petitioner disputed MDHHS' determination.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS budgeted \$ [REDACTED] in earned income for Petitioner and \$ [REDACTED] in unearned income based on Minor Children's SSI benefit (Exhibit A, p. 25). Petitioner did not dispute these amounts.

After income is calculated, MDHHS must determine applicable deductions. Because a member of Petitioner's group has a disability, the group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. An SDV FAP group is one which has an SDV member. *Id.* A disabled person is defined as a person who receives a federal, state, or local public disability retirement pension and the disability is considered permanent under the Social Security Act. *Id.* MDHHS acknowledged that Petitioner's FAP group was an SDV group at the hearing. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (January 2023), p. 3.

MDHHS budgeted an earned income deduction of \$ [REDACTED] (Exhibit A, p. 25). No evidence was presented that Petitioner had dependent care expenses or court-ordered

child support. MDHHS budgeted the standard deduction based on a group-size of four, which was \$193.00. RFT 255 (February 2023), p. 1.

Petitioner's FAP group was also entitled to deductions for verified medical expenses that the SDV member incurred in excess of \$35. BEM 554, p. 1. MDHHS did not budget any medical expenses for the household. At the hearing, Petitioner credibly testified that she incurs medical expenses on behalf of her Minor Child and that she informed MDHHS of those expenses.

MDHHS is required to obtain verification from clients when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023), p. 1. To obtain verification, MDHHS must tell the clients what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a VCL to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date, they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has elapsed, and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.*

Based on the record, Petitioner informed MDHHS of Minor Child's medical expenses, but the medical expenses were not budgeted. No evidence was presented that MDHHS sent Petitioner a VCL to verify the medical expenses. Policy requires MDHHS to verify information regarding an eligibility factor when the information is unclear or incomplete. It did not do so in this case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it 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. Reinstate Petitioner's FAP case and redetermine her eligibility for FAP benefits, requesting verification of household medical expenses, if necessary, from September 1, 2023, ongoing.

2. Issue Petitioner supplemental payments for any FAP benefits that she was eligible to receive, but did not, from September 1, 2023, ongoing; and
3. Notify Petitioner in writing of its decision.



LJ/nr

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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**

Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209  
**MDHHS-Wayne-41-  
Hearings@michigan.gov**

**Interested Parties**

Wayne 41 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]