



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], MI [REDACTED]

Date Mailed: January 4, 2024
MOAHR Docket No.: 23-006418
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on December 26, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, manager.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of March 2023, Petitioner received \$470 in monthly FAP benefits.
2. On March 2, 2023, MDHHS determined Petitioner was eligible to receive \$126 in FAP benefits beginning April 2023.
3. From April through July 2023, MDHHS issued to Petitioner monthly FAP benefits of \$120 based on an incorrect monthly unearned income amount of \$2,346.
4. On September 1, 2023, MDHHS determined Petitioner was eligible to receive \$352 in gross monthly FAP benefits.

5. On September 29, 2023, Petitioner requested a hearing to dispute FAP eligibility for months in which she received \$120 in FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing on September 29, 2023, to dispute FAP eligibility in months she received \$120 in FAP benefits. Exhibit A, pp. 3-4. Eligibility Summary documents listed FAP issuances to Petitioner of \$120 from April through July 2023.¹ Exhibit A, p. 15.

Notably, April 2023 is several months before Petitioner requested a hearing. Consideration was given to whether Petitioner timely requested a hearing. A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. During the hearing, MDHHS was asked when Petitioner was sent written notice of FAP eligibility of \$120 in monthly FAP benefits. MDHHS testimony acknowledged a written notice of \$120 in FAP benefits was never sent to Petitioner.² Without proper written notice of a disputed action, Petitioner's hearing request cannot be untimely.

Petitioner's dispute was based on MDHHS using an allegedly incorrect unearned income in determining FAP eligibility. During the hearing, MDHHS stated that Petitioner's FAP eligibility in disputed months factored an unearned income of \$2,346 for Petitioner's benefit group.³ MDHHS provided insufficient evidence verifying the sources of unearned income to determine Petitioner's FAP eligibility from April through July 2023.⁴ However, MDHHS's Hearing Summary acknowledged that an incorrect amount of child support was factored, and that the household unearned income was later corrected.

Given the evidence, MDHHS improperly determined Petitioner's benefit group's unearned income in determining FAP eligibility from April through July 2023. As a

¹ Beginning August 2023, Petitioner's FAP eligibility increased to \$351. Exhibit A, p. 15.

² MDHHS sent Petitioner notice on March 2, 2023 of monthly FAP eligibility of \$126. Exhibit A, pp. 19-23. Though the notice was sent more than 90 days before Petitioner's hearing request, it is irrelevant because Petitioner disputed monthly FAP eligibility of \$120 per month, not \$126.

³ Petitioner stated her unearned income derived from child support of \$720 and a total of \$1,128 in SSI for a total unearned income of \$1,848. Petitioner's testimony was uncorroborated by any documents.

⁴ When MDHHS was asked to explain how it calculated \$2,346 as unearned income, MDHHS stated it counted \$943 in SSI and \$750 in child support for Petitioner while Petitioner's child received \$248 in SSI. The unearned income totaled \$1,941.

remedy, Petitioner is entitled to a reprocessing of FAP benefits from April through July 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility from April through July 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility from April through July 2023 subject to the finding that MDHHS incorrectly calculated Petitioner's benefit group's unearned income; and
- (2) Issue notice and benefits supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki
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

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

Oakland 3 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]