



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: February 1, 2024
MOAHR Docket No.: 23-009458
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on January 24, 2024. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits due to excess income effective December 1, 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 recipient of FAP benefits.
2. Petitioner was an ongoing recipient of Medicaid (MA) benefits.
3. On July 30, 2023, Petitioner submitted a change report to the Department to add [REDACTED] (JE) and Petitioner's granddaughter, [REDACTED] (WB), to her household. (Exhibit B, pp. 1 – 4).
4. On August 4, 2023, the Department sent a redetermination application to Petitioner for MA. (Exhibit A, p. 13).

5. The redetermination package was pre-populated with certain information including Petitioner as the only member of her household. (Exhibit A, p. 14).
6. On August 22, 2023, Petitioner completed and returned a redetermination application for MA to the Department. (Exhibit A, pp. 13 – 19).
7. Petitioner did not list any additional members of her household to the redetermination application. (Exhibit A, p. 14).
8. On August 31, 2023, Petitioner submitted a change report to the Department to add new employment income, remove foster care subsidies for three (3) minor children (Children 1 - 3), and remove [REDACTED] (MB), and Children 1 – 3 from her household. (Exhibit A, pp. 7 – 10).
9. The new employment income Petitioner disclosed to the Department is from [REDACTED] (Employer), and Petitioner disclosed earnings of [REDACTED] per hour for 40 hours per week. (Exhibit A, p. 7).
10. The Department performed a net income test based on a group size of one (1) and Petitioner's new employment income and determined Petitioner to have [REDACTED] in gross monthly income. (Exhibit A, p. 11 – 12).
11. On December 20, 2023, the Department issued a Notice of Case Action to Petitioner closing her FAP case effective December 1, 2023 due to excess gross income. (Exhibit A, pp. 20 – 21).
12. On December 19, 2023, Petitioner requested a hearing regarding her FAP benefits. (Exhibit A, pp. 3 – 5).

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, Petitioner requested a hearing on December 19, 2023 to dispute the closure of her FAP case due to excess gross income and failure of the Department to add JE and WB to Petitioner's group. The Department closed Petitioner's FAP case

based on Petitioner's disclosed income and a group size of one (1). (Exhibit A, pp. 11 and 20).

The Department must periodically review an individuals' eligibility for active programs and may utilize the forms used to conduct such a review to redetermine eligibility of active programs. BAM 210 (October 2022), p. 1. Petitioner must completely and truthfully answer all questions on [departmental] forms and is responsible for reporting changes to the Department. BAM 105 (July 2023), pp. 9 and 11 – 13. Changes in circumstances may be discovered through a report by Petitioner, computer tape matches, quality assurance reviews, or other means. BAM 220 (July 2023), p. 1. Once the Department is aware of a change in income that will affect eligibility or benefit level, the Department must complete a new budget. BEM 505 (October 2022), p. 10.

On July 30, 2023, Petitioner reported a change in her household with the addition of JE and WB. On August 31, 2023, the Petitioner reported changes in her employment income and unearned income of the household, as well as the removal of MB and Children 1 - 3. (Exhibit A, pp. 7 – 8). Petitioner's reported changes of August 31, 2023 regarding her employment included her hourly rate and that she was working 40 hours per week. (Exhibit A, p. 7).

As set forth previously, the Department processed Petitioner's change in income in December 2023. When employment income is paid more frequently than once per month, the Department must multiply the income by established multipliers to determine a standard monthly amount for FAP cases. BEM 505, pp. 8 – 9. This standardization accounts for months in which Petitioner may receive more or fewer than the usual number of paychecks.

Based on Petitioner's report of working 40 hours per week and earning [REDACTED] per hour, Petitioner's income is [REDACTED] per week. Weekly income is multiplied by a standard 4.3 to reach a standardized monthly amount of [REDACTED]. The budget provided by the Department is consistent with this amount and therefore the Department properly calculated Petitioner's gross monthly income. (Exhibit A, p. 11).

Here, when the Department processed Petitioner's income change, reported on August 31, 2023, in December 2023, it did so for a group size of one (1). (Exhibit A, p. 11). It is unclear whether the Department processed Petitioner's previous change report of July 30, 2023 (Exhibit B). Based on the Department's testimony, the Department did not consider the July change report as part of the redetermination regarding Petitioner's FAP benefits in December 2023. That change report increased Petitioner's household by two (2) with the addition of JE and WB and should have been effective September 1, 2023.

The Department acknowledged that Petitioner had reported JE and WB as household members on July 30, 2023, but explained that it relied on the household members Petitioner reported on her MA redetermination application submitted on August 22, 2023 to determine her group size as one (1) when processing her change of income.

The MA redetermination form the Department sent to Petitioner on August 4, 2023 had a section for household members and was prepopulated with Petitioner as the only household member. When Petitioner returned the completed redetermination application for MA on August 22, 2023, she did not add any members of her household. Petitioner testified that she believed that no other members of her household were supposed to be listed because the redetermination application referenced MA only. Of additional note, the pre-populated redetermination sent on August 4, 2023 did not include four (4) other known members of Petitioner's household, namely MB and Children 1 – 3 despite no change report removing them was submitted by Petitioner until August 31, 2023.

Notwithstanding the foregoing, the Department did not fully evaluate Petitioner's FAP case in accordance with policy prior to closing it. When the Department performs a redetermination of active programs, it must thoroughly review all eligibility factors. BAM 210, p. 1. Here, the Department processed the redetermination of Petitioner's MA benefits and the change reported by Petitioner on August 31, 2023. However, given the discrepancies between the July 30, 2023 change report, the August 22, 2023 redetermination, and the August 31, 2023 change report, the Department should have inquired further. Before determining eligibility, the Department is to give the client a reasonable opportunity to resolve any discrepancy between his or her statements and information from another source. BAM 130, p. 9.

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 FAP case.

DECISION AND ORDER

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 eligibility for FAP benefits based on her group size, effective December 1, 2023 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from December 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



CML/ml

Caralyce M. Lassner
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
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Petitioner
[REDACTED]
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