



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

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Date Mailed: February 9, 2024
MOAHR Docket No.: 23-009869
Agency No.: ██████████
Petitioner: ██████████

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 February 1, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kathy Abdalla, Eligibility Specialist.

ISSUE

Did the Department properly consider Petitioner's receipt of child support in determining Petitioner's Food Assistance Program (FAP) benefits for February 1, 2024 through March 31, 2024?

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 has an █████ year old child (Child) for whom she is supposed to receive child support. (Exhibit A, pp. 4, 11).
3. On December 21, 2023, Petitioner received a lump sum of back child support in the amount of ██████████ (Exhibit A, pp. 8, 13).
4. Petitioner asserted she had not received any child support in over a year. (Exhibit A, p. 4).

5. On December 21, 2023, Petitioner notified the Department of her receipt of the [REDACTED] child support by submitting a change report. (Exhibit A, p. 8).
6. On December 21, 2023, the Department obtained a consolidated income report from the State of Michigan which confirmed Petitioner's report to the Department regarding the child support received. The consolidated report showed no child support received by Petitioner from September 2023 to November 2023. (Exhibit A, p. 10).
7. On December 21, 2023, the Department processed Petitioner's change report, treating Petitioner's receipt of the child support payment as income. On December 21, 2023, the Department recalculated Petitioner's gross and net income budgets based on the child support payment and issued a Notice of Case Action (NOCA) advising Petitioner her FAP benefits were decreased to \$13.00 per month for the period of February 1, 2024 through March 31, 2024 due to the change in her net unearned income. (Exhibit A, pp. 14– 21).
8. On December 26, 2023, Petitioner requested a hearing to dispute the reduction in her FAP benefits. (Exhibit A, p. 4).

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.

Petitioner requested a hearing to dispute the decrease in her FAP benefits due to her receipt of back child support in the amount of [REDACTED] (Exhibit A, p. 4). A NOCA was issued to Petitioner on December 21, 2023 decreasing her FAP benefits to \$13.00 per month for the period of February 1, 2024 through March 31, 2024 due to an increase in her net unearned income. (Exhibit A, pp. 20 – 21).

In this case, Petitioner received a significant child support payment of [REDACTED] on December 21, 2023. (Exhibit A, p. 8). Petitioner testified that she had not received child support in over a year prior to December 21, 2023. (See also Exhibit A, p. 4). The Department's consolidated inquiry showed that Petitioner had not received any child support payments between at least September 2023 and November 2023. (Exhibit A, p. 11).

Lump sums and accumulated benefits are assets starting in the month they are received. BEM 400 (July 2023), p. 16. Policy defines an accumulated benefit as a one-time payment of accumulated non-MDHHS benefits issued to cover a retroactive period of time or to cover a future period of time and provides as examples Retirement Survivors and Disability Insurance (RSDI) benefits, Veterans Benefits, Unemployment Insurance (UI) Benefits, and Workers Compensation. By comparison, a lump sum is defined as “a one-time payment that is not an accumulation of monthly benefits and provides as examples income tax refunds, inheritances, insurance settlements, injury awards. BPG (January 2022), pp. 1, 42.

Generally speaking, in FAP cases, child support payments received by an individual are counted as unearned income unless payable to a third party. BEM 503 (January 2023), p. 9. However, the Department is not to budget amounts received that are unusual and not expected to continue. BEM 505 (October 2023), p. 4. When child support payments received by an individual vary or are not a good indicator of future payments, the Department must discuss it with the client and document the discussion. The Department must also document how it decided on the amount to budget. BEM 505, pp. 4 – 5.

In this case, based on the testimony of the Department, it budgeted the single payment as unearned income, averaged over three (3) months, and in light of the information that Petitioner had not received any child support in September, October, or November of 2023. (Exhibit A, pp. 10 – 13). The Department did not offer any evidence that it discussed receipt of the child support with Petitioner or learned of and considered that Petitioner had not received any child support in over a year.

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 treated Petitioner’s receipt of child support as unearned income rather than an accumulated benefit to determine Petitioner’s Food Assistance Program (FAP) benefits for February 1, 2024 ongoing.

DECISION AND ORDER

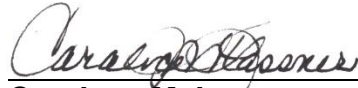
Accordingly, the Department’s decision is **REVERSED**.

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 for the period of February 1, 2024 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 February 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/tlf



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

Yvonne Hill
Oakland County DHHS Madison
Heights Dist.
30755 Montpelier Drive
Madison Heights, MI 48071

**MDHHS-Oakland-DistrictII-
Hearings@michigan.gov**

Interested Parties

BSC4

B. Cabanaw

N. Denson-Sogbaka

M. Holden

Via-First Class Mail:

Petitioner

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