



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 23, 2024
MOAHR Docket No.: 24-000346
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 February 14, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective January 1, 2024 ongoing?

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 is an ongoing recipient of FAP benefits. (Exhibit A, pp. 6 – 10).
2. On November 4, 2023, the Department sent a redetermination application to Petitioner for his FAP benefits. The redetermination application was due on November 27, 2023 and Petitioner returned it to the Department on November 21, 2023. Petitioner disclosed his employment as the only source of income for his group. (Exhibit A, pp. 6 – 10).
3. On December 7, 2023, Petitioner submitted verification of his income to the Department in the form of paystubs from his employer [REDACTED] (Employer). (Exhibit A, pp. 11 – 14).

4. Petitioner also provided additional paystubs to the Department at a later date. (Exhibit A, pp. 15 – 18).
5. On January 5, 2024, the Department calculated Petitioner's net income budget and excess shelter deduction. (Exhibit A, pp. 26 – 28).
6. On January 5, 2024, the Department completed the redetermination process in Petitioner's case and issued a Notice of Case Action (NOCA). The NOCA certified Petitioner's group of four (4) for monthly FAP benefits of \$219.00, effective January 1, 2024. (Exhibit A, pp. 19 – 20).
7. On January 11, 2024, Petitioner requested a hearing to dispute the Department's calculation of his income and the amount of his 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 submitted a request for hearing to the Department on January 11, 2024, disputing the Department's calculation of his income and the corresponding amount of his FAP benefits. (Exhibit A, p. 4). The Department processed a redetermination application in Petitioner's case on January 5, 2024 and issued a NOCA approving Petitioner's group of four (4) for \$219.00 per month, effective January 1, 2024. (Exhibit A, pp. 19 – 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 all 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.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department must consider all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income.

Prospective income is income not yet received but expected going forward. BEM 505, pp. 1, 6. The Department may only use prospective income if income verification was requested and received, payments were received by the client after the verifications were submitted, and there are no known changes in the income being prospected. BEM 505, p. 3. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of weekly amounts are multiplied by 4.3, and the average of bi-weekly amounts are multiplied by 2.15. BEM 505, pp. 8 – 9.

In this case, the Department sent a redetermination application to Petitioner on November 4, 2023. The Petitioner timely completed and returned the application to the Department on November 21, 2023. (Exhibit A, pp. 6 – 10). On his redetermination, Petitioner disclosed his employment with Employer as the only source of income of the household and provided verification of his income with paystubs from Employer to the Department on December 7, 2023. (Exhibit A, pp. 8, 11 – 14). The paystubs Petitioner provided are dated November 10, November 17 (two stubs), and December 1, 2023. The Department testified that the Department relied on Petitioner's income as reported by Work Number to determine Petitioner's countable earned income of [REDACTED]. Although the Department further testified that it also used a paystub dated January 12, 2024 in the amount of [REDACTED] and January 19, 2024 in the amount of [REDACTED] to determine Petitioner's countable earned income, because the NOCA was issued January 5, 2024, the Department could not have relied on those additional paystubs to determine income.

Considering the paystubs Petitioner provided to the Department on December 7, 2023, when Petitioner's weekly paystubs from November 10 in the amount of [REDACTED] November 17 (two stubs) totaling [REDACTED] and December 1, 2023 in the amount of [REDACTED] plus a possibly missing paystub for November 24 in an amount of [REDACTED] are converted to a standardized monthly amount, the gross income may total a little over [REDACTED]. As this standard monthly amount is less than the [REDACTED] in countable earned income reported by the Department on the net income budget, the Department has failed to satisfy its burden of proof.

After Petitioner filed the hearing request, he reported that he was laid off, and the Department presented evidence that it had requested verification of loss of employment. Because the Department had not completed its processing of this change, any change in FAP benefits due to this change in circumstances was not the subject of the hearing.

Therefore, 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 benefits effective January 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 January 1, 2024 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from January 1, 2024 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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
MDHHS-Wayne-55-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
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N Denson-Sogbaka

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]