



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]
[REDACTED], MI [REDACTED]

Date Mailed: February 14, 2024
MOAHR Docket No.: 24-000368
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On January 2, 2024, Petitioner, [REDACTED] [REDACTED] requested a hearing to dispute a Food Assistance Program (FAP) benefit reduction. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 8, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator.

A 13-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's FAP benefit amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 4, 2023, a Redetermination was mailed to Petitioner. Petitioner was required to submit the completed Redetermination to the Department by November 27, 2023.
2. On November 21, 2023, Petitioner submitted the completed Redetermination.
3. Petitioner reported that she has a household size of 2.
4. Petitioner's daughter is a full-time student at Western Michigan University.

5. The Department determined that Petitioner has a group size of 1 because Petitioner's daughter is not an eligible student because she was enrolled in college full-time but did not meet any of the additional criteria to be considered an eligible student. When the Department removed Petitioner's daughter from Petitioner's group size, it resulted in a decrease in FAP benefits beginning January 1, 2024.
6. On January 6, 2024, a Notice of Case Action was sent to Petitioner notifying Petitioner that she was eligible for FAP benefits of \$291.00 per month beginning January 1, 2024.
7. On January 2, 2024, Petitioner requested a hearing to dispute her FAP benefit amount.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 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 her FAP benefit amount. The Department determined that Petitioner was eligible for a FAP benefit amount of \$291.00 per month effective January 1, 2024. Petitioner disagrees with the Department's decision to remove her daughter from her group which results in a decrease in Petitioner's monthly FAP benefit amount.

A full-time student is ineligible for FAP benefits unless the student meets one of the following criteria: receiving Family Independence Program (FIP) assistance; enrolled as a result of a Job Training Partnership Act (JTPA) program; enrolled as a result of a program under Section 236 of the Trade Readjustment Act of 1974; enrolled in a FAE&T or FAE&T plus and either part of a career and technical education program as defined under the Perkins Strengthening Career and Technical Education Act and a course of study that will lead to employment or the student is limited to remedial courses, basic adult education, literacy, or English as a second language; participating in an employment and training program for low-income households operated by state and local government where one or more components of such program is at least equivalent to an acceptable FAP employment and training program component such as a program under the Carl D. Perkins Career and Technical Education Improvement Act of 2006; participating in another state or local government employment and training program; physically or mentally unfit for employment; employed for at least an average of 20 hours per week and paid for such employment; self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20; participating in an on-the-job training program; participating in a state or federally funded work study program; providing more than half of the physical care of a group member under the age of six, or providing more than half of the physical care of a group member age six through eleven

if the local office has determined that adequate child care is unavailable to enable the student to participate in work or work study. BEM 245 (July 1, 2023), pp. 4-6.

Petitioner asserted that her daughter continues to reside in her home, and that she cannot feed herself and her daughter with the FAP allotment that the Department determined she was eligible for effective January 2024. Petitioner testified that her only other source of income is from disability. However, no evidence was submitted by Petitioner to prove that the Department improperly determined that Petitioner's daughter is not an eligible student for FAP purposes.

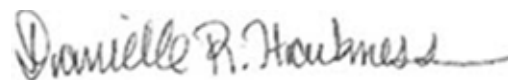
Further, Petitioner argued that she did not receive notice of the change in FAP benefits until after the change had taken place. However, Petitioner was previously notified of her benefit period with a begin and end date. Benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 115 (January 1, 2024), p. 28. Here, the fact that the Notice of Case Action was not sent to Petitioner until January 6, 2024, is harmless error as Petitioner had been previously advised of her FAP benefit period.

DECISION AND ORDER

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 acted in accordance with its policies and the applicable law when it determined Petitioner's Food Assistance Program benefit amount.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

DH/nr



Danielle R. Harkness
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
Amber Gibson
Ingham County DHHS
5303 South Cedar
Lansing, MI 48911
**MDHHS-Ingham-
Hearings@michigan.gov**

Interested Parties
Ingham County DHHS
BSC2
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]