



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
DIRECTOR

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██████████, MI ██████████

Date Mailed: March 5, 2024
MOAHR Docket No.: 24-000726
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 telephone hearing was held on March 4, 2024, via conference line. The Petitioner was present with his wife, ██████████. The Department of Health and Human Services (Department) was represented by Nicole Taylor, Assistance Payments Supervisor and Karen Shelton, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit 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. Petitioner was an ongoing FAP recipient.
2. On January 19, 2024, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the monthly amount of \$██████ per month effective January 1, 2024, ongoing (Exhibit A, pp. 91-95).
3. On January 24, 2024, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit amount was decreasing to \$██████ per month effective March 1, 2024 (Exhibit A, pp. 11-16).

4. On January 26, 2024, Petitioner submitted a request for hearing disputing the Department's actions.
5. On February 5, 2024, Petitioner submitted a second request for hearing disputing the Department's actions.

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 submitted two requests for hearing arguing that the Department failed to timely process documentation submitted by his wife. Petitioner's wife contended that she submitted verification that her husband had changed employment in January 2024. Petitioner's wife also asserted that she submitted verification of her loss of employment in February 2024. Petitioner's wife also indicated that she submitted verification of an increase in Petitioner's child support payments. Petitioner's wife also reported that the Department was including individuals in their household that she reported had left the home.

Clients are required to report changes in circumstances that potentially affect eligibility or benefit amount to the Department within 10 days. BAM 105 (January 2018), pp. 11-12. The Department must act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2018), p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 7 and BEM 505 (October 2018), p. 11. A supplemental issuance may be necessary in some cases. BAM 220, p. 7. If necessary, verification is not returned by the due date, the Department will take appropriate action based on what type of verification was requested. BAM 220, p7. If verification is returned late, the increase must affect the month after verification is returned. BAM 220, p. 7. For stopping income, the Department will budget the final income expected to be received in the benefit month. BEM 505, p. 8. Use the best available information to determine the amount of the last check expected. BEM 505, p. 8. Use information from the source and from the client. BEM 505, p. 8. Remove stopped income from the budget for future months. BEM 505, p. 8. The Department will request

verification of changes that result in a benefit increase or when change information is unclear, inconsistent, or questionable.

Petitioner first argued that verification of Petitioner's employment status was submitted on or around January 20, 2024. Petitioner's wife stated that Petitioner transitioned to new employment in December 2023. Petitioner's wife indicated that the verification that she submitted to verify the change in employment was her husband's final paycheck with his previous employer and the first paycheck from his new employer. Petitioner's wife also reported that she ended her employment on or around December 20, 2023. Petitioner's wife conceded that she did not report or verify the loss of employment until on or around February 21, 2024.

The Department presented evidence that Petitioner's earned income amount was budgeted to be \$█████ per month as of January 1, 2024, ongoing. The Department testified that it budgeted Petitioner's new income from employment, as well as Petitioner's wife's income from employment. The Department testified that as of the date of the request for hearing, Petitioner's wife had not submitted verification of the loss of her employment.

The Department updated Petitioner's income from employment effective January 1, 2024. Therefore, the Department properly acted upon the change reported by Petitioner. Petitioner's wife conceded that although she separated from employment in December 2023, she did not notify the Department or submit any verification of her loss of employment to the Department until the end of February 2024. Therefore, per policy, the Department acted in accordance with policy when it did not remove Petitioner's income from employment as of March 1, 2024.

Petitioner also argued that the Department was including household members that were not present in the household. On May 31, 2023, Petitioner reported that her stepdaughter (initials █████) had moved out of her house (Exhibit A, pp. 38-39). On December 2, 2023, Petitioner reported that █████ was back in the home but her son (████) had moved out of the house as of August 25, 2023 (Exhibit A, pp. 35-37). On January 29, 2024, Petitioner again report that █████. was not in the household as of August 25, 2023. Per the Notice of Case Action issued on January 19, 2024, Petitioner had a group size of 6, which included █████. and █████ for benefits effective January 1, 2024. Per the Notice of Case Action issued on January 24, 2024, Petitioner's group size was decreased to 5 effective March 1, 2024.

Petitioner reported in December 2023 that although one of her children left the home (████), her stepdaughter began living in the household (████). Therefore, Petitioner's household size should have remained the same. However, the Department incorrectly included both █████. and █████. in the household in January and February 2024, resulting in a group size of 6. The Department correctly reduced Petitioner's group size to 5 effective March 1, 2024. Thus, the Department did not properly determine Petitioner's household size in January and February 2024.

Petitioner also contended that the Department failed to process an increase in his child support payments. Petitioner argued that he has submitted child support payment information to the Department, but it was not processed, as his child support payment deduction for his FAP benefit case was not increased. Per the January 19, 2024, and January 24, 2024 Notices of Case Action, Petitioner was receiving a child support payment deduction of \$52.63.

The Department presented Petitioner's child support summary showing Petitioner has a court *ordered* child support payment of \$311.19 for one child, a monthly payment of \$307.15 for his second child and \$580.00 in arrearages. However, the report indicates that Petitioner has a \$0 average monthly amount *paid* for the monthly support payments and a \$52.63 average monthly paid amount for the arrearage.

The Department allows a deduction for the following child support expenses: (i) the amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month; (ii) court-ordered third party payments on behalf of non-household member; and (iii) legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household. BEM 554, p. 6. The Department will not allow more than the legal obligation if the client is up to date on their child support payments. BEM 554, p. 6. However, if the client is behind and making arrearage payments, the Department will allow the total amount paid even if it exceeds the court-ordered amount. BEM 554, p. 6. Current and arrearage child support expenses must be paid to be allowed. BEM 554, p.6.

Petitioner presented evidence of submissions made to the Department (Exhibit 1). Per the submission page, Petitioner uploaded proof of a child support payment on August 17, 2023, and on January 30, 2024. It is unclear if Petitioner submitted verification of an increase in the court ordered child support amount or an increase in child support payments made by Petitioner. The Department only provided a summary of Petitioner's child support deduction. The Department did not provide the Consolidated Inquiry report verifying Petitioner's child support payments that were actually made and the calculation of his child support deduction. Therefore, the Department failed to establish that it acted in accordance with policy when it determined Petitioner's child support deduction. As it follows, the Department failed to establish that is properly determined Petitioner's FAP benefit amount.

DECISION AND ORDER

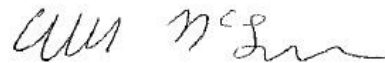
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP eligibility.

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 FAP eligibility as of January 1, 2024; ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements he is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
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
Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
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Interested Parties

M. Holden
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BSC4

Via-First Class Mail :

Petitioner

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