



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: April 24, 2024
MOAHR Docket No.: 24-003262
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Julia Norton

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, telephone hearing was held on April 22, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Andrea Motley, Family Independence Specialist, and William Shoulders, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for gross income exceeding program limits for her group size?

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 for a three person FAP group consisting of herself and her two minor children.
2. On March 1, 2024, the Office of Inspector General (OIG) issued a report of its investigation into Petitioner's FAP group composition. Exhibit A, pp. 6-7.
3. The OIG report concluded that Petitioner's adult children, [REDACTED] (ZW), age [REDACTED] and [REDACTED] (DW), age [REDACTED] were residing with Petitioner. Exhibit A, p. 7.
4. On or about March 18, 2024, the Department added ZW and DW to Petitioner's FAP group size and included their incomes in Petitioner's budget.

5. On March 18, 2024, the Department issued a Notice of Case Action to Petitioner indicating that her FAP case would close on April 1, 2024, because the gross income of the household [REDACTED] exceeded the limit [REDACTED] (\$3,807.00) for Petitioner's group size of five. Exhibit A, pp. 8-11.
6. On March 26, 2024, Petitioner contacted the Department and disputed that ZW and DW resided in her home and requested another OIG investigation. Exhibit A, pp. 13-14. Petitioner orally requested a hearing disputing the Department's action closing her FAP case, which was followed by a written hearing request received by the Department on April 2, 2024.
7. On March 27, 2024, the OIG indicated that Petitioner's request for another investigation was closed as a duplicate complaint. The OIG indicated that Petitioner could provide a verification that the children were not residing in her home by statement or other documentation showing where they reside. Exhibit A, p. 15.
8. On April 1, 2024, the Department closed Petitioner's FAP case.

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 disputes the Department's action closing her FAP case for gross income exceeding group size income limits. The Department's actions were based on the OIG's report finding DW and ZW were residing with Petitioner. Petitioner disputed the OIG's report prior to the Department closing her FAP case.

The Department must process changes, whether reported by the client or accessed by computer tape matches, thorough quality assurance reviews, or by other means. BAM 220 (November 2023), p. 1. Here, the Department added ZW and DW to Petitioner's FAP group after OIG concluded that ZW and DW were living with Petitioner, based on CLEAR results that driver's license records maintained by the Michigan Department of State (MDOS) showed that both ZW and DW used Petitioner's home address as their address of record. OIG also found that Work Number, the database the Department can access for employer-provided employment information for clients, showed that DW

reported Petitioner's address as his address to his employer. After adding ZW and DW to Petitioner's FAP group and updating Petitioner's FAP budget to include their income, the Department sent Petitioner a Notice of Case Action on March 18, 2024 notifying her that her FAP case would close effective April 1, 2024 due to excess gross income.

On March 26, 2024, Petitioner called the Department to dispute the OIG's conclusion that ZW and DW were residing in her home. The OIG's report indicated that Petitioner could provide a verification that the children were not residing in her home by statement or other documentation showing where they reside.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. The Department obtains verification when, for example, information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 (October 2023), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department did not issue a VCL regarding ZW's and DW's residences before closing Petitioner's FAP case on April 1, 2024. The Department then sent a VCL to Petitioner on April 2, 2024, regarding the children's residences. The Department did not act in accordance with Department policy when it closed Petitioner's FAP case prior to issuing a VCL to determine Petitioner's group composition.

Furthermore, at the hearing, Petitioner credibly testified that ZW and DW do not live in her home, stating that ZW lives with her father and DW lives with his own family, including his girlfriend and their child. Petitioner pointed out that her children may have used her address on their drivers' licenses, but they were adults and she cannot update their addresses with MDOS or their employers. Petitioner's testimony that DW and ZW did not live with her outweighed OIG's evidence that DW and ZW did live with her, which relied exclusively on addresses DW and ZW reported to the MDOS and employers (which may in fact have been accurate at the time they were reported but never updated), and did not include a home visit; contact with DW, ZW or Petitioner; or a VCL sent to Petitioner prior to case closure.

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. Further, the Administrative Law Judge finds that Petitioner's credible statements at the hearing indicating that DW lives with her father and ZW lives with his family are sufficient to

verify they do not reside with Petitioner and, accordingly, should not be included in her FAP group.

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. Remove DW and ZW from Petitioner's FAP group.
2. Reinstate Petitioner's FAP case and, if eligible, issue FAP benefits for April 1, 2024 ongoing.
3. Notify Petitioner of its decision in writing.



JN/ml

Julia Norton
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 Ezell

Wayne Pathways to Potential-DHHS

3040 W Grand Blvd STE 5-450

Detroit, MI 48202

MDHHS-Wayne-23-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

Via First Class Mail:

Petitioner

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