



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 12, 2022
MOAHR Docket No.: 22-000994
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 5, 2022, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Rhonda Barley, Eligibility Specialist (ES) and Sonya Tankersley, Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-35.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 December 1, 2021, a Semi-Annual Contact Report was sent to Petitioner regarding her FAP case with a due date of December 21, 2021. (Exhibit A, pp. 7-9)
2. On December 13, 2021, Petitioner submitted the completed Semi-Annual Contact Report, which indicated her stepdaughter F.S. lived in the home. (Exhibit A, pp. 7-9)
3. F.S. is active on another FAP case. (ES Testimony)

4. The Department did not request or obtain any verification regarding where F.S. resides. (ES Testimony)
5. The Department obtained verification of earned income for Petitioner's daughter N.M. (Exhibit A, pp. 11-15)
6. At some point, a New Hire form was issued requesting verification of employment income for a household member. (Exhibit A, pp. 1 and 29)
7. The Department determined that: Petitioner's FAP group exceeded the income limit for simplified reporting; the group was eligible for FAP benefits in the amount of \$135.00 for the month of February 2022; and Petitioner's FAP case would close effective March 1, 2022 based on a failure to return the New Hire (Exhibit A, pp. 1 and 17-19; ES and Supervisor Testimony)
8. On February 22, 2022, a Notice of Case Action was issued to Petitioner stating the FAP authorization decreased to \$135.00 for the month of February 2022 and the FAP case would close effective March 1, 2022. The notice indicated F.S. was not included in the FAP group because she was eligible for this program in another case and that there had been a failure to verify requested information. (Exhibit A, pp. 21-25)
9. On February 23, 2022 Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-4)

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.

The Department is to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, January 1, 2022, p. 1.

In this case, the Department determined that: Petitioner's FAP group exceeded the income limit for simplified reporting; the group was eligible for FAP benefits in the amount of \$135.00 for the month of February 2022; and Petitioner's FAP case would close effective March 1, 2022 based on a failure to return a New Hire. (Exhibit A, pp. 1

and 17-19; ES and Supervisor Testimony) On February 22, 2022, a Notice of Case Action was issued to Petitioner stating the FAP authorization decreased to \$135.00 for the month of February 2022 and the FAP case would close effective March 1, 2022. The notice indicated F.S. was not included in the FAP group because she was eligible for this program in another case and that there had been a failure to verify requested information. (Exhibit A, pp. 21-25)

On December 1, 2021, a Semi-Annual Contact Report was sent to Petitioner regarding her FAP case. (Exhibit A, pp. 7-9) It appears that the Department was aware that F.S. was in the home when this form was issued based on her information being typed onto the form as a household member. (Exhibit A, p. 8) On December 13, 2021, Petitioner submitted the completed Semi-Annual Contact Report indicating F.S. still lived in the home. (Exhibit A, pp. 7-9)

F.S. is active on another FAP case. (ES Testimony) However, the Department did not request or obtain any verification regarding where F.S. resides to determine what FAP group she actually belongs in. (ES Testimony)

The Department obtained verification of earned income for Petitioner's daughter N.M. (Exhibit A, pp. 11-15)

At some point, a New Hire form was issued requesting verification of employment income for a household member. (Exhibit A, pp. 1 and 29) The Department's Hearing Summary indicates the New Hire was regarding Petitioner's husband and was issued December 6, 2021 with a due date of December 16, 2021. (Exhibit A, p. 1) However, a February 22, 2022 case comment, in part, indicates that: the FAP case was denied effective March 2022 for a wage match but the ES spoke with Petitioner; Petitioner's daughter had not worked for the requested employer as work ended April 13, 2021; and the ES uploaded verification from the work number. (Exhibit A, p. 29) A February 23, 2022 case comment indicates the ES sent a ticket to the Bridges Resource Center stating the FAP closed in error. However, their review indicated a new hire for Petitioner's husband was updated as not received on February 1, 2022, which properly caused the closure. (Exhibit A, p. 29) It is noted that the Department did not provide a copy of any New Hire issued to Petitioner in their hearing summary packet. Accordingly, it is not clear when the New Hire was issued, who's employment verification was needed, or the due date. Further, the testimony of the ES was inconsistent regarding when Petitioner returned the New Hire to the Department. (ES Testimony)

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 determined Petitioner's eligibility for FAP because the Department failed to obtain verification when information regarding an eligibility factor, where F.S. resides, was inconsistent and/or contradictory. Further, the Department did not provide sufficient evidence to establish that Petitioner failed to comply with a request for verification, specifically a New Hire.

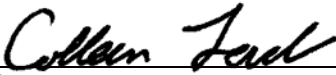
DECISION AND ORDER

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. Re-determine Petitioner's eligibility for FAP retroactive to February 1, 2022 in accordance with Department policy.

CL/dm



Colleen Lack
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

Sent via Email:

MDHHS-Wayne-15-Greydale-Hearings
M. Holden
D. Sweeney
MOAHR
BSC4HearingDecisions

Sent via First-Class Mail:

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