



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: July 5, 2022
MOAHR Docket No.: 22-002126
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 June 28, 2022, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Beth Bressler, Assistance Payments Supervisor and Laida Brookins, Program Manager.

ISSUE

Did the Department properly determine the 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 [REDACTED], 2021, the Petitioner filed a FAP application for benefits. Department Exhibit 1, pgs. 4-14.
2. On December 2, 2021, the Department sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP application was denied due to excess income. Department Exhibit 1, pgs. 33-36.
3. On January 26, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. Department Exhibit 1, pg. 3.

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, the Petitioner filed a FAP application for benefits on [REDACTED] 2021. Department Exhibit 1, pgs. 4-14. On December 2, 2021, the Department sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP application was denied due to excess income. Department Exhibit 1, pgs. 33-36.

During the hearing, the Department did not meet their burden of proof that they properly followed policy in determining the Petitioner's eligibility for FAP benefits. The Department could not account for the amounts of earned and unearned income used in the FAP budget to determine excess income for FAP eligibility. The Petitioner contested the amounts proposed by the Department. The Department could not find documentation to support their amounts utilized in the FAP budget. Therefore, this Administrative Law Judge could not uphold the Department's findings of excess income for FAP eligibility. BEM 501 and 503.

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 that the Petitioner had excess income for 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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP application dated [REDACTED], 2021.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.



Carmen G. Fahie

Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

CF/cc

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 :

Interested Parties

MDHHS-Berrien-Hearings
BSC3-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]