



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.: 22-002231
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 30, 2022, from Lansing, Michigan. The Petitioner was represented by herself and her caseworker from Avalon Housing, Alliyah Smith. The Department of Health and Human Services (Department) was represented by Gretchen Banning, Eligibility Specialist and Maiael Vine-Fair, Assistance Payment Supervisor.

ISSUE

Did the Department properly determine that the Petitioner had excess income for 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. The Petitioner was a recipient of FAP benefits with a redetermination due in March 2022.
2. On [REDACTED] 2022, the Petitioner submitted her redetermination application to the Department. Department Exhibit 1, pgs. 8-21.
3. On [REDACTED] 2022, the Department Caseworker completed the redetermination interview with the Petitioner and pulled the required income verification from the system. Department Exhibit 1, pgs. 28-43.
4. Subsequently, the Petitioner's FAP case was closed due to excess income, but a copy of the notice was not in the hearing packet.

5. On [REDACTED] 2022, the Petitioner reapplied for FAP benefits with an application interview conducted on [REDACTED] 2022, where the Petitioner was approved for a prorated FAP benefit of \$[REDACTED] for the month of May and ongoing benefits of \$[REDACTED] per month starting in June 2022. A copy of that new application, budget, and notice were also not in the hearing packet.
6. On [REDACTED] [REDACTED] 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. Department Exhibit 1, pg. 5.

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 was a recipient of FAP benefits with a redetermination due in March 2022. On March 7, 2022, the Petitioner submitted her redetermination application to the Department. Department Exhibit 1, pgs. 8-21. On April 15, 2022, the Department Caseworker completed the redetermination interview with the Petitioner and pulled the required income verification from the system. Department Exhibit 1, pgs. 28-43.

Subsequently, the FAP case was closed due to excess income, but a copy of the notice was not in the hearing packet. On May 19, 2022, the Petitioner reapplied for FAP benefits with an application interview conducted on [REDACTED] 2022, where the Petitioner was approved for a prorated FAP benefit of \$[REDACTED] for the month of May and ongoing benefits of \$[REDACTED] per month starting in June 2022. A copy of that new application, budget, and notice were also not in the hearing packet.

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 based on her redetermination application by failing to include a copy of the benefit notice. The Department also did not provide a copy of the case closure notice for the FAP benefits in the hearing packet. The Administrative Law Judge could not determine if the Petitioner lost any FAP benefits from her FAP closure to her new application FAP opening. In addition, the Department did not provide a copy of the new application dated [REDACTED] 2022, even though they discussed it in the hearing summary, but did not include the copies in the hearing packet. A copy of that new application, budget, and notice were also not in the hearing packet. Therefore, this Administrative Law Judge

could not uphold the Department's findings of excess income for FAP eligibility based on her redetermination application and FAP eligibility based on a new FAP application. BEM 550, 554, 556, and 600.

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 her redetermination application of FAP benefits and the processing of her new application dated [REDACTED] 2022.

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 redetermination and her new application for FAP submitted on [REDACTED] 2022.

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.

CF/cc



Carmen G. Fahie
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 :

Interested Parties

MDHHS-Washtenaw-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]