



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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██████████, MI ██████████

Date Mailed: August 23, 2022
MOAHR Docket No.: 22-003110
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on August 17, 2022 via teleconference. Petitioner appeared and represented herself. Ryan Kennedy, Hearings Facilitator, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case?

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 applied for FAP on ██████████, 2022 and was approved for FAP benefits for the month of June (Exhibit A, p. 1).
2. On June 6, 2022, MDHHS conducted an eligibility interview with Petitioner by telephone (Exhibit A, p. 18). Petitioner reported that ██████████ (Husband) was laid off from his employment at ██████████ (Employer 1) on April 6, 2022 due to a disability (Exhibit A, pp. 19-21).
3. On June 6, 2022, MDHHS sent Petitioner an Employment Verification Form requesting that her employer, ██████████ (Employer 2), complete the form (Exhibit A, p. 9). The deadline for returning the form to MDHHS was June 16, 2022 (Exhibit A, p. 9).

4. On June 13, 2022, Petitioner reported that she started a new job working for MDHHS (Employer 3). Petitioner reported that she would be working 40 hours per week, earning \$[REDACTED] per hour (Exhibit A, p. 5).
5. On June 13, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits were terminated, and case closed, effective July 1, 2022 ongoing (Exhibit A, p. 14). The notice indicated that Petitioner's monthly income was \$[REDACTED], which exceeded the gross income limit for the program (Exhibit A, p. 15).
6. On [REDACTED], 2022, Petitioner requested a hearing to dispute the termination of her FAP benefits (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. MDHHS 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, MDHHS approved Petitioner for FAP for the month of [REDACTED] 2022. Shortly thereafter, it redetermined Petitioner's eligibility based on Petitioner's report that she started a new job at Employer 3. MDHHS determined that the household was over the FAP income limit and terminated Petitioner's FAP benefits, effective July 1, 2022 ongoing. Petitioner disputed the calculation of her household income.

To determine eligibility for FAP, MDHHS must consider all earned and unearned income available to the household. BEM 500 (April 2022), pp. 1-5. MDHHS determined that the household had a monthly income of \$[REDACTED] based on Petitioner's earned income from Employers 2 and 3. At the hearing, MDHHS stated that it budgeted \$[REDACTED] in monthly income from Employer 2 and \$[REDACTED] in monthly income from Employer 3.

Regarding income from Employer 2, Petitioner testified that she informed MDHHS that her employment at Employer 2 ended on June 10, 2022 and that she received her last paycheck from Employer 2 on June 30, 2022. Despite the income from Employer 2 ending on June 30, 2022, MDHHS included the income in the FAP budget calculation for July 1, 2022 ongoing. MDHHS asserted that Petitioner failed to report that the income from Employer 2 had ended. Petitioner testified that her employment with Employer 2 was seasonal employment in nature and it ended when the school year

ended. Petitioner maintained that she informed MDHHS about the nature of this employment and that it was ending. The undersigned Administrative Law Judge finds Petitioner's testimony credible. Accordingly, MDHHS should not have included employment income from Employer 2 in the budget calculation for July 1, 2022 ongoing.

Regarding Petitioner's income from Employer 3, MDHHS budgeted \$[REDACTED] in monthly income. Petitioner did not dispute the monthly amount but expressed concerns regarding why the income was included even though she had just started the job and had not received a paycheck yet. A group's benefits for a month are based, in part, on a prospective income determination, which is the best estimate of the income expected to be received by a group during a specific month. BEM 505 (November 2021), p. 1. Petitioner reported that she began working at Employer 3 on June 13, 2022 and that she expected to work 40 hours per week and to be paid biweekly (Exhibit A, pp. 1, 5). Because Petitioner's employment at Employer 3 started on June 13, 2022 and she expected to be employed during the month of July, MDHHS properly included this income in the budget calculation for July 1, 2022, ongoing.

Regarding Husband's income from Employer 1, MDHHS asserted at the hearing that although Petitioner reported that Husband was laid off from his employment beginning April 6, 2022, Husband continued receiving income from Employer 1 that was not reported to MDHHS. MDHHS presented a Work Number Report, which shows fluctuating payments made to Husband from May 18, 2022 to July 20, 2022 (Exhibit A, p. 27). Petitioner testified that Husband was laid off from Employer 1 on April 6, 2022 and that he received his last paycheck on or about April 27, 2022. However, Husband also had a pending short-term disability claim, which was eventually approved by Employer 1. Due to a delay in processing, Husband received the short-term disability payments as lump sum payments, which covered an extended period of time, instead of weekly payments. MDHHS is required to include the gross amount of short or long-term disability payments as unearned income. BEM 503 (April 2022), p. 33. MDHHS did not include these payments in the budget calculation for July 1, 2022 ongoing.

Based on the discrepancies described above, MDHHS has failed to show that it properly determined Petitioner's budgetable income for FAP. Accordingly, 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 MDHHS did not act in accordance with Department policy when it terminated Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reinstate Petitioner's FAP case, effective July 1, 2022;
2. Redetermine Petitioner's eligibility for FAP benefits from July 1, 2022 ongoing, excluding income from Employer 2 from the household income and requesting additional verifications from Petitioner regarding other income sources, if necessary;
3. If eligible, issue supplemental FAP payments to Petitioner for any benefits that she was entitled to receive but did not, from July 1, 2022 ongoing; and
4. Inform Petitioner of its decision in writing.

LJ/tm



Linda Jordan
Administrative Law Judge

