



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: October 7, 2022
MOAHR Docket No.: 22-003923
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 September 29, 2022, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Rolla Ley, Hearing Facilitator and Chantel Schartz, Eligibility Specialist.

ISSUE

Did the Department properly determine the Petitioner's eligibility for 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. The Petitioner applied for FAP benefits on [REDACTED], 2022. Department Exhibit 1, pgs. 38-45.
2. On August 22, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that she was approved for FAP benefits for July 25, 2022, through July 31, 2022, for \$89 per month and from August 1, 2022, through June 30, 2023, for \$395 per month. Department Exhibit 1, pgs. 5-10.
3. The Petitioner pays child support to her mother who was previously awarded guardianship and physical custody for her child through the court, but the child is back in the Petitioner's home, so the child support is given back to the Petitioner. Department Exhibit 1, pgs. 14-18.

4. On August 24, 2022, the Department received a verbal hearing request, contesting the Department's negative action.

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 applied for FAP benefits on [REDACTED], 2022. Department Exhibit 1, pgs. 38-45. On August 22, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that she was approved for FAP benefits for July 25, 2022, through July 31, 2022, for \$89 per month and from August 1, 2022, through June 30, 2023, for \$395 per month. Department Exhibit 1, pgs. 5-10. The Petitioner pays child support to her mother who was previously awarded guardianship and physical custody for her child through the court, but the child is back in the Petitioner's home, so the child support is given back to the Petitioner. Department Exhibit 1, pgs. 14-18. On August 24, 2022, the Department received a verbal hearing request, contesting the Department's negative action.

During the hearing, the Petitioner stated that she pays child support to her mother who returns the money to her because the child is back in her household. She felt that she wasn't getting full credit for what she was paying in child support. A review of the FAP budget showed that child support was being counted as unearned income, but the child support wasn't being counted under the child support deduction of the FAP budget. The child support is a "wash" because she is court ordered to pay it, but the child support is returned to her because the child is back in the home. The Department needs to count the child support as a child support deduction because she pays the child support, and the child support is also unearned income. As a result of the Department only counting the child support as unearned income, the Petitioner's income was incorrectly inflated to negatively affect her FAP eligibility for FAP benefits.

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 the Petitioner's eligibility for FAP benefits.

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, initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP application dated [REDACTED], 2022, by also counting the child support paid by the Petitioner under the child support deduction in the FAP budget.

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/he may be eligible to receive, if any.

CF/cc

A handwritten signature in cursive script, reading "Carmen G. Fahie", written over a horizontal line.

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-Isabella-Hearings
BSC2-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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