

4. On [REDACTED] 2024, Petitioner applied for FAP benefits for herself and [REDACTED] ([REDACTED]), Petitioner's [REDACTED]-year-old daughter. Exhibit A, pp. 70-76. Petitioner reported only herself and [REDACTED] living in the home. Exhibit A, p. 71. Petitioner reported no rent expense or utility expenses. Exhibit A, pp. 74-75.
5. On February 6, 2024, the Department received Petitioner's request for hearing regarding the Department's failure to process the three FAP applications. Exhibit A, pp. 5-6.
6. On February 16, 2024, the Department sent Petitioner a Notice of Case Action denying FAP benefits for August 17, 2023, to November 30, 2023 because Petitioner's gross income exceeded the limit for a group size of four. Exhibit A, pp. 34-38.
7. On February 21, 2024, the Department sent Petitioner a Benefit Notice denying FAP benefits for December 12, 2023, to December 31, 2023 because Petitioner's gross income exceeded the limit for a group size of one. Exhibit A, pp. 64-66.
8. On February 21, 2024, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of the last 30 days of earned and unearned income and employment verification forms. Exhibit A, pp. 85-92.
9. On March 6, 2024, the Department sent Petitioner a Benefit Notice denying FAP benefits for January 29, 2024, to January 31, 2024 because Petitioner's gross income exceeded the limit for a group size of two and she did not return employment verifications. Exhibit A, pp. 96-98.

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, Petitioner requested a hearing because of the Department's delay in processing her three applications. The Department denied Petitioner's three FAP applications for income exceeding the limit for group size and, with respect to the [REDACTED] 2024 application, for also failing to return income and employment verifications.

As an initial matter, Petitioner disputed the Department denying her applications without first affording her an interview. Pursuant to Department policy, an interview is required before denying FAP assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115 (May 2024), p.18. The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. *Id.*, p. 16.

At the hearing, the Petitioner testified that she never had an interview prior to the denials of each of her FAP applications. The Department did not dispute Petitioner's testimony. Therefore, the Department did not act in accordance with Department policy when it failed to interview Petitioner prior to denying her FAP applications.

Additional Department errors in each of the three applications are addressed by application month.

August 2023 Application

Petitioner applied for FAP benefits for herself and her son ■■■ – a group size of two. However, the Department based its financial eligibility on Petitioner having a group size of four and considered the gross income of Petitioner and ■■■. The Department denied Petitioner's ■■■ 2023 application due to excess gross income. Exhibit A, pp. 34-35.

The Department must determine the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. FAP group composition is established by determining all of the following: 1. Who lives together. 2. The relationship(s) of the people who live together. 3. Whether the people living together purchase and prepare food together or separately. 4. Whether the person(s) resides in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. Children include natural, step and adopted children. BEM 212 (January 2022), p.1.

While Petitioner listed her three children on the FAP application, Petitioner indicated that ■■■ (age ■■■) lived with her, and ■■■ (age ■■■) and ■■■ (age ■■■) did *not* live with her. Specifically, under both ■■■ and ■■■ information, Petitioner answered "no" in response to the question whether each child was "In the home?". Petitioner credibly testified that only ■■■ lived with her, and her other children lived with her ex-spouse. The Department included Petitioner's children under the age of 22 in her group size even though ■■■ and ■■■ did not live with her. If there was a dispute regarding the group size, the Department is required to request verification. BAM 130 (October 2023), p.1, BEM 212, p.4. The Department did not request verifications regarding residency. The Department did not act in accordance with Department policy when it determined Petitioner's FAP group composition.

Income of a non-group member is excluded from the FAP budget. BEM 550 (February 2024), p.2. If ■■■ and ■■■ are not members of Petitioner's FAP group, their income is excluded in determining Petitioner's gross income eligibility for FAP benefits. Thus, the

Department did not act in accordance with Department policy when it incorrectly included [REDACTED] income in the group's gross income calculation.

December 2023 Application

Petitioner applied for FAP benefits for herself and was the only person in the household. The Department properly used a group size of one when determining Petitioner's eligibility. The Department denied Petitioner's [REDACTED] 2023 application due to excess gross income. Exhibit A, pp. 64-65.

In concluding that Petitioner had excess income, the Department relied on Petitioner's gross monthly earnings from Employer 1 and Employer 2. The Department testified it used The Work Number to determine Petitioner's gross weekly paychecks from Employer 1 dated November 17, 2023 for \$[REDACTED]; November 24, 2023 for \$[REDACTED]; December 1, 2023 for \$[REDACTED]; and December 8, 2023 for \$[REDACTED]. The Department also testified it included gross wages from two semi-monthly paychecks from Employer 2 dated November 15, 2023 for \$[REDACTED] and November 22, 2023 for \$[REDACTED]. Petitioner did not dispute the accuracy of the paystubs. For FAP benefits, in the month of application the group's income is not converted to a monthly standard amount. BEM 505 (October 2023), p.1. Petitioner's gross monthly income from Employer 1 totals \$[REDACTED]. Her gross monthly income from Employer 2 totals \$[REDACTED]. Adding the gross monthly income of the two employers results in total gross monthly income of \$[REDACTED]. The FAP EDG Net Income Results presented by the Department reflected a gross earned income amount of \$[REDACTED]. Exhibit A, p. 67. Therefore, the Department failed to establish that it properly calculated Petitioner's gross income. However, the recalculated gross monthly income of \$[REDACTED] exceeds the gross income limits in RFT 250, which limits program eligibility at \$2,430.00 or less for a group size of one. The Department properly denied Petitioner's December 2023 application.

The Department acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2023 application for excess gross income.

January 2024 Application

Petitioner applied for FAP benefits for herself and [REDACTED]. The Department properly used a group size of two when determining Petitioner's eligibility but denied the application due to both excess gross income and failure to verify employment income.

The Department testified it used The Work Number to determine Petitioner's gross weekly paychecks from Employer 1 dated January 5, 2024 for \$[REDACTED]; January 12, 2024 for \$[REDACTED]; January 19, 2024 for \$[REDACTED] and January 26, 2024 for \$[REDACTED]. The Department also testified it included gross wages from two semi-monthly paychecks from Employer 2 dated November 15, 2023 for \$[REDACTED] and November 22, 2023 for \$[REDACTED]. The Department testified it used the November income because, despite requesting verifications, it did not have any updated Employer 2 paystubs from Petitioner.

The Department is to determine budgetable income using countable, available income for the benefit month being processed. BEM 505 (October 2023), p. 3. The Department

attempted to obtain current income information regarding Employer 2 by sending Petitioner a VCL requesting current income. When Petitioner did not respond, the Department used the November 2023 income information. However, upon review, the Department sent the VCL to Petitioner's former address. Petitioner's application for both December and January reflected a new address. Petitioner credibly testified that she never received the Department's verification requests. Based on the Department's documentation, the Department sent the forms to an incorrect address.

The Department did not act in accordance with Department policy when it included the November 2023 Employer 2 income in Petitioner's January 2024 budget based on Petitioner's failure to return verifications which the Department sent to an incorrect address.

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 denied Petitioner's August 2023 and January 2024 FAP applications.

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. Reprocess Petitioner's August 2023 and January 2024 FAP applications and determine eligibility for FAP benefits;
2. If Petitioner is eligible for FAP benefits, issue supplements for any month Petitioner was eligible but did not receive benefits;
3. Notify Petitioner of its decision in writing.



Julia Norton
Administrative Law Judge

JN/cc

