



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN DPA  
DIRECTOR

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Date Mailed: April 5, 2024  
MOAHR Docket No.: 24-002257  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

### **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 March 27, 2024, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Patricia Marx Hearing Facilitator. Department Exhibit 1, pp. 1-61 was received and admitted.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit due to excess income?

### **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 was a recipient of FAP and Child Development and Care Program (CDC).
2. On November 14, 2023, Petitioner submitted a lease agreement that showed the father of her child ██████████ on the lease.
3. On November 21, 2023, Petitioner submitted an income tax return for ██████████.
4. ██████████ claimed Petitioner and their child as dependents on his 2022 income tax return and listed his address as Petitioner's address.

5. On November 28, 2023, a FEE referral was made. A fee investigation was completed that concluded that [REDACTED] was required to be in Petitioner's FAP group.
6. On December 20, 2023, a Notice of Case Action was sent to Petitioner informing her that FAP and CDC were closing due to excess income.
7. On February 6, 2024, Petitioner requested a hearing disputing the closure of FAP and CDC.
8. At hearing, Petitioner stated that she was no longer disputing the closure of CDC.
9. [REDACTED] employer stated that he was off work between December 14, 2023, and January 20, 2024. (Ex. 1, p.49)

### **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.

#### Parents and Children

Children include natural, step and adopted children. 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. BEM 212

#### Temporary Absence

A person who is temporarily absent from the group is considered living with the group. A person's absence is temporary if all of the following are true:

- The person's location is known.
- The person lived with the group before an absence (newborns are considered to have lived with the group).
- There is a definite plan for return.
- The absence has lasted or is expected to last 30 days or less. BEM 212

In this case, at the time the group composition issue was evaluated on December 20, 2023, [REDACTED] was off work and presumably living with Petitioner. [REDACTED]

██████████ is on Petitioner's lease, he lists Petitioner's address as his address on his tax return and claims Petitioner and their child as dependents on his tax return. ██████████ ██████████ living situation more closely met the definition of "living together" compared to the definition of "temporary absence". BEM 212 Therefore, the inclusion of ██████████ ██████████ in the FAP group and the inclusion of his income was proper and correct and consistent with Department policy. When ██████████ income was included in the household it put the monthly household gross income at \$██████████ which was over the \$██████████ monthly gross income limit for FAP and the closure due to excess income was correct.

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 acted in accordance with Department policy when it closed Petitioner's FAP case due to excess income.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

AM/cc

  
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**Aaron McClintic**  
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-Manistee-Hearings  
BSC1-HearingDecisions  
N. Denson-Sogbaka  
B. Cabanaw  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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