



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN DPA
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: April 23, 2024
MOAHR Docket No.: 24-002938
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 18, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Kimberly Owens, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On October 24, 2023, the Department received Petitioner's completed Redetermination listing herself and her child, income for an adoption subsidy and employment, no housing expense, and utilities including heat, electric, and phone.
2. On November 8, 2023, the Department and Petitioner completed a redetermination interview.
3. On the same day, the Department mailed a Verification Checklist (VCL) to Petitioner requesting verification of Petitioner's income from ██████████ via check stubs, employer statement, or DHS-38 Verification of Employment form as well as her adoption subsidy via check stubs or letter from the person or agency making the payment with a due date of November 20, 2023.

4. On November 28, 2023, the Department received an Order of Adoption dated September 29, 2010 showing Petitioner's adoption of her son.
5. On December 20, 2023, the Department issued a Notice of Case Action to Petitioner advising her that her FAP benefits closed effective December 1, 2023 because the Department had not received verification of unearned income payment for Petitioner's son.
6. On December 26th and 27th of 2023, the Department received Petitioner's employment pay stubs dated November 27, 2023 in the amount of \$██████, December 11, 2023 in the amount of \$██████, and December 22, 2023 in the amount of \$██████.
7. On January 17, 2024, the Department received a new application from Petitioner for Medical Assistance (MA) Program and FAP benefits listing herself and her son, listing income from employment as well as the adoption subsidy.
8. On February 2, 2024, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of income from employment and the adoption subsidy via the same methods previously identified on November 8, 2023 with a due date of February 12, 2024.
9. On February 8, 2024, the Department received paystubs for Petitioner's employment dated January 22, 2024 in the amount of \$██████ and February 5, 2024 in the amount of \$██████.
10. On February 15, 2024, the Department issued a Notice of Case Action to Petitioner advising her that effective January 17, 2024, her FAP application was denied because she failed to verify requested information.
11. On February 16, 2024, the Department received a letter verifying the adoption subsidy in the amount of \$██████ for Petitioner's son.
12. On February 23, 2024, the Department issued another Notice of Case Action to Petitioner advising her that effective January 17, 2024 through January 31, 2024, she was eligible for \$11.00, and that for February 2024, ongoing, she was eligible for \$23.00 per month based upon \$██████ in earned income, \$██████ in unearned income, the \$198.00 standard deduction, and \$680.00 for the heat and utility standard deduction (H/U).
13. On March 13, 2024, the Department received Petitioner's request for hearing disputing the closure, denial, and then calculation of her FAP benefits.

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 disputes the closure of her FAP benefits for failure to return requested documentation and then the subsequent calculation of her FAP benefit rate from her [REDACTED] 2024 application.

In determining eligibility for FAP, all income that is not specifically excluded by policy is countable income including adoption subsidies and earned income. It must be verified at application, redetermination, or for reported changes. BEM 500 (April 2022), pp. 3, 13-14; BEM 503 (January 2023), p. 3, 43-44; BEM 501 (July 2022), pp. 6-7, 9-10. At the time that the Department requested verification of Petitioner's adoption subsidy and earned income, the Department sought proof via a recent check stub or a letter for both items. In FAP cases, Petitioner is allowed ten calendar days to verify all requested information or if in the process of redetermination, until the end of the redetermination month, whichever is later, to return the required documents. BAM 130 (October 2023), pp. 7-8. Negative action notices are sent when the client refuses to comply or when the time period given has lapsed and the client has not made a reasonable effort to comply. *Id.* Petitioner's redetermination month was November 2023 and on November 8, 2023, the Department requested verification of Petitioner's earned income and adoption subsidy by November 20, 2023 via check stubs or written statements from the employer or entity issuing the adoption subsidy. By December 20, 2023, the Department had not received verification of the adoption subsidy, nor had it received verification of Petitioner's wages. Verification of wages was not received until December 26th and 27th. As a result, because the Department had not received any documentation verifying either form of income by the end of the Redetermination month, November 2023, the Department properly issued a Notice of Case Action on December 20, 2023 informing Petitioner that her FAP benefits had closed effective December 1, 2023.

As a result of the closure of Petitioner's FAP benefits, Petitioner submitted a new application to the Department and the Department made another request for verification of her current wages and the adoption subsidy by February 12, 2024. The Department received verification of Petitioner's wages on February 8, 2024, but did not receive verification of the adoption subsidy until February 16, 2024. Therefore, the Department's

initial denial of Petitioner's application on February 15, 2024 was in accordance with policy because the requested verification of the adoption subsidy had not been received by the due date. Furthermore, once the Department received the verifications, the Department properly re-registered Petitioner's application and used the original application date to determine eligibility. BAM 130, p. 8.

To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the group. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2023), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 4-9. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. The adoption subsidy of \$[REDACTED] is received on a monthly basis, therefore there is no need to be further standardized. Petitioner receives her earned income biweekly; therefore, it must be standardized. After averaging her income verified in February 2024 and multiplying by 2.15, Petitioner's standardized income is \$[REDACTED] (dropping the cents). The household total income is \$[REDACTED].

After consideration of income, the Department considers all appropriate deductions and expenses. No evidence was presented that Petitioner, or her son were a senior, disabled, or disabled veteran. Therefore, she is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- 20% earned income deduction.
- Standard deduction based on group size.

BEM 550 (April 2023), pp. 1; BEM 554 (April 2023), p. 1; BEM 556 (January 2023), pp. - 6.

Petitioner is eligible for the standard deduction of \$198.00. RFT 255 (October 2023), p. 1; BEM 556, p. 4. No evidence was presented that Petitioner has dependent care or child support expenses. Finally, the 20% earned income deduction of \$346 is considered for a total Adjusted Gross Income (AGI) of \$[REDACTED].

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The Excess Shelter Deduction is calculated by adding Petitioner's housing costs to any of the applicable standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Petitioner does not have any housing expenses but is responsible

for her utilities. The heat and utility standard deduction (H/U) of \$680.00 covers all heat and utility costs including cooling except actual utility expenses (repairs or maintenance). BEM 554, p. 16. When a client is not responsible for heating and/or cooling costs, the client may receive utility standard deductions for non-heat electric, water and/or sewer, telephone, cooking fuel, and trash as applicable. BEM 554, p. 22-25. The Department is required to annually review these standards and make adjustments to reflect changes in costs. 7 CFR 273.9(d)(6)(iii)(B). The expenses and factors outlined here are the only expenses considered for purposes of calculating the FAP budget and determining eligibility. After each item is considered, Petitioner's total housing cost is \$680.00 and reduced by 50% of Petitioner's AGI (\$██████) resulting in a negative number and no excess shelter costs. *Id.* Next, because Petitioner has no excess shelter cost, her AGI is equal to her net income (\$██████). *Id.*

A review of the Food Assistance Issuance Table shows that Petitioner is eligible for \$23.00 in FAP benefits for a group size of two. BEM 556, p. 6; RFT 260 (October 2023), p. 28. Because Petitioner submitted her application to the Department on January 17, 2024, Petitioner's FAP benefit must be prorated for January 2024. Benefits are prorated from the date of application. BAM 115, p. 26. Therefore, for January 2024, Petitioner is eligible for \$11.00 in FAP benefits. The Department properly determined Petitioner's FAP eligibility.

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 benefits, denied the initial application in January 2024, reprocessed the application, and calculated Petitioner's FAP benefit rate for January 2024, and February 2024, ongoing.

DECISION AND ORDER

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

AMTM/cc



Amanda M. T. Marler
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-Wayne-57-Hearings
BSC4-HearingDecisions
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

██████████
██████████
██████ MI ██████