



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: May 21, 2024  
MOAHR Docket No.: 24-003374  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

### **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 May 1, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

### **ISSUE**

Did the Department properly remove Petitioner from her household FAP group for noncooperation with child support reporting obligations?

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

### **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 an ongoing recipient of FAP for a household consisting of herself, her two adult children (Adult Son A) and (Adult Son B) and a minor child (Minor Son).
2. On January 22, 2024, Petitioner completed a Semi-Annual Contact Report. However, Petitioner did not provide any employment information for the FAP group of four. (Exhibit A, pp.16-18).

3. In connection with the Semi-Annual Contact Report completed by Petitioner, the Department obtained a Work Number Verification for Petitioner and her two adult sons. (Exhibit A, pp. 19-26).
4. The Department provided Work Number Verifications which provided income information for both adult sons (Exhibit A, pp. 19-26):
5. On March 7, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that FAP benefit would close effective March 1, 2024 through March 31, 2024 due excess income. (Exhibit A, pp. 8-13). In addition, the NOCA informed Petitioner that effective April 1, 2024 through August 31, 2024, a FAP benefit amount of \$39 monthly was approved for three members of the FAP group and Petitioner was disqualified from the group due to noncooperation with child support requirements.
6. On March 20, 2024, Petitioner sent the Department a request for hearing disputing the Department's actions regarding her FAP benefits. (Exhibit A, pp. 3-5).

### **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.

Upon reviewing Petitioner's Semi-Annual Contact Report, the Department concluded that Petitioner did not cooperate with child support requirements and was removed from the FAP group. Additionally, the Department concluded that the FAP group's income exceeded the net income limit for FAP eligibility for March 2024 and was eligible for \$39 monthly for April 2024 ongoing. Petitioner disputes the Department's findings regarding her cooperation with OCS and her FAP eligibility.

#### **Child Support Noncooperation**

Regarding Petitioner's alleged noncooperation with child support cooperation requirements, parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, July 1, 2023, p. 1. The custodial parent or alternative caretaker of children must comply with all requests for action or

information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1. Cooperation is a condition of eligibility for FAP and failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255 pp. 2, 9-10, and 14-15.

At the hearing, the Department testified that Petitioner was disqualified from her household FAP group in September 2023 because it received information from OCS that Petitioner was noncooperative with child support requirements, and thus should be disqualified from receiving FAP. Petitioner credibly testified that after the Department's noncooperation finding, she contacted OCS with the contact number provided by her worker. While a representative from OCS was provided notice of this hearing, an OCS representative was not present at the hearing and no evidence was presented to substantiate Petitioner's alleged noncooperation. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it removed Petitioner from the FAP group due to noncooperation with child support reporting obligations.

#### **FAP Eligibility**

The FAP benefit amount is determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors include group size, countable monthly income, and relevant monthly expenses. The NOCA dated March 7, 2024, included a summary of all relevant budget factors. (Exhibit A, pp. 9-10). During the hearing, the budget factors were discussed. In determining Petitioner's FAP eligibility, as noted above, she was excluded from the FAP group based on a child support disqualification finding. With the reversal of this Department findings, the FAP group size for Petitioner's household should be four as opposed to three. (Exhibit A, p. 8).

With an increased group size, the income attributed to Petitioner by the Department would render Petitioner eligible for FAP benefits; however, per the evidence of record and testimony provided at the hearing, Adult Son A is not currently working and was not employed during the redetermination review period and the Work Number provided for Adult Son A confirms his breaks in employment. Further, the Department indicated that based on the provided Work Numbers, son A had income averaging [REDACTED] per month. (Exhibit A, p. 1). However, the Work Number showed paystubs from only September 2023 and October 2023, for one employer and one paystub from March 2024 for a different employer. (Exhibit A, pp. 23, 26). But since Adult Son A was not working during the review period, no income should have been noted for him.

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 disqualified Petitioner from FAP group based on noncooperation findings from OCS and

did not act in accordance with Department policy when it determined that Petitioner had excess net income for FAP eligibility.

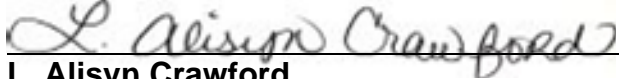
**DECISION AND ORDER**

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. Remove the child support noncooperation applied to Petitioner's case in September 2023;
2. Include Petitioner as a qualifying member of her FAP group effective March 1, 2023 ongoing;
3. Recalculate Petitioner's FAP benefits from March 1, 2023 ongoing based on the increased group size and based on verified income for the FAP group;
4. If eligible, issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from March 1, 2023 ongoing; and,
5. Notify Petitioner of its decision in writing.

LC/ml

  
**L. Alisyn Crawford**  
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:**

**Department Representative**  
Office of Child Support (OCS)-MDHHS  
201 N Washington Square  
Lansing, MI 48933  
**MDHHS-OCS-Admin-Hearings@michigan.gov**

**DHHS**  
Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**  
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M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
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