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GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: June 7, 2024
MOAHR Docket No.: 24-004400
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on May 30, 2024, from Battle Creek, Michigan. The Petitioner was represented by ██████ ██████ Authorized Hearing Representative (AHR), Disability Network. ██████ ██████ the Petitioner, appeared and testified. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-40.

ISSUE

Did the Department properly determine Petitioner's eligibility for the 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. On March ██████ 2024, Petitioner applied for FAP for herself and her son. It was reported that there was no household income. (Exhibit A, pp. 3-11)
2. On March ██████ 2024, an interview was completed with Petitioner and her Authorized Representative (AR). It was reported that Petitioner babysits for a friend and earns \$████████ per week. (Exhibit A, pp. 12-18)

3. On March ■ 2024, a Verification Checklist was issued to Petitioner requesting verification of self-employment with a due date of March 29, 2024. (Exhibit A, pp. 19-21)
4. On April ■ 2024, a Notice of Case Action was issued to Petitioner denying FAP based on a failure to provide requested verification. (Exhibit A, pp. 20-26)
5. The Department acknowledged that the April ■ 2024 denial was incorrect because Petitioner did return self-employment verification forms for January 2024-March 2024. (Exhibit A, pp. 1 and 27-29)
6. On April ■ 2024, Petitioner's FAP application was reprocessed. (Exhibit A, p. 1)
7. On April ■ 2024, a Verification Checklist was issued to Petitioner requesting proof of disability and cooperation with the Office of Child Support (OCS) with a due date of April 22, 2024. (Exhibit A, pp. 30-31)
8. On April ■ 2024, a Quick Note and Claim of Good Cause form were issued to Petitioner because Petitioner previously indicated the cooperation with OCS was not in her child's best interest. (Exhibit A, pp. 32-34)
9. On April ■ 2024, a Benefit Notice was issued to Petitioner approving FAP effective March ■ 2024. FAP benefits were only approved for Petitioner's child because Petitioner is not an eligible group member due to the noncooperation status with the OCS at that time. (Exhibit A, pp. 35-38)
10. On April 10, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, unnumbered pages)

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 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. Bridges Eligibility Manual (BEM) 255, February 1, 2024, p. 1.

For FAP, 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. A 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.

The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: grantee (head of household) and spouse; specified relative/individual acting as a parent and spouse; and parent of the child for whom paternity and/or support action is required. Cooperation is required in all phases of the process to establish paternity and obtain support. It includes all of the following: contacting the support specialist when requested; providing all known information about the absent parent; appearing at the office of the prosecuting attorney when requested; and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255 pp. 9-10.

Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255 p. 11.

There are two types of good cause: (1) cases in which establishing paternity/securing support would harm the child, and (2) cases in which there is danger of physical or emotional harm to the child or client. BEM 255 p. 4.

If a client claims good cause, both the specialist and the client must sign the DHS-2168. The client must complete Section 2, specifying the type of good cause and the individual(s) affected. BEM 255 p. 5.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. Note: S-Corporations and Limited Liability Companies (LLCs) are not self-employment. Except for those noted above, a person who provides child care in his/her home is considered to be self-employed. If the care is provided in the child's home, the provider is considered to be an employee of the parent; see Bridges Eligibility Manual (BEM) 501. BEM 502, October 1, 2019, p. 1. (Underline added by ALJ).

In this case, the Department acknowledged that the April 2024 denial was incorrect because Petitioner did return self-employment verification forms for January 2024-March

2024. (Exhibit A, pp. 1 and 27-29). Accordingly, on April 11, 2024, Petitioner's FAP application was re-processed. (Exhibit A, p. 1).

On April [REDACTED] 2024, a Verification Checklist was issued to Petitioner requesting proof of disability and cooperation with the OCS with a due date of April 22, 2024. (Exhibit A, pp. 30-31). Further, on April [REDACTED] 2024, a Quick Note and Claim of Good Cause form were issued to Petitioner because Petitioner previously indicated the cooperation with OCS was not in her child's best interest. (Exhibit A, pp. 32-34). However, the Department did not receive a Claim of Good Cause form from Petitioner. (Hearings Facilitator). Therefore, good cause for the non-cooperation could not be considered. On April [REDACTED] 2024, a Benefit Notice was issued to Petitioner approving FAP effective March [REDACTED] 2024. FAP benefits were only approved for Petitioner's child because Petitioner is not an eligible group member due to the noncooperation status with the OCS at that time. (Exhibit A, pp. 35-38). The determination to only approve FAP for Petitioner's son was in accordance with the BEM 255 policy.

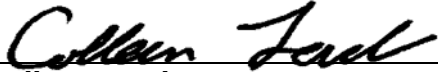
Regarding the income included in the FAP determination, Petitioner's AHR explained that Petitioner has no income because she is not employed. (AHR Testimony). However, during the March [REDACTED] 2024 interview with Petitioner and her AR, it was reported that Petitioner babysits for a friend and earns \$[REDACTED] per week. (Exhibit A, pp. 12-18). Further, Petitioner provided the requested self-employment verification forms for income earned for babysitting/nanny services from January 2024-March 2024. (Exhibit A, pp. 27-29). Pursuant to the above cited BEM 502, policy, a person who provides childcare in their home is considered self employed. Petitioner's AHR explained that it is just odd babysitting jobs, not constant. (AHR Testimony). Based on what was reported during the interview and on the self employment verification forms, the babysitting work was two to three weeks per month. (Exhibit A, pp. 16 and 27-29). If this is no longer accurate, Petitioner should report the change in income to the Department. Pursuant to BAM 105, clients must report changes that potentially affect eligibility or benefit amount within 10 days, including changes with income. BAM 105, March 1, 2024, p. 10).

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 reprocessed Petitioner's application for FAP and determined FAP could only be approved for Petitioner's son at that time.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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 :

DHHS
Kristina Etheridge
Calhoun County DHHS
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MOAHR

Via-First Class Mail :

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[REDACTED]
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED]