



GRETCHEN WHITMER
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 3, 2024
MOAHR Docket No.: 24-004633
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 28, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Eligibility Specialist.

ISSUE

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

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 benefits.
2. On or around ██████████ 2024, Petitioner applied for State Emergency Relief (SER) assistance and the Department updated Petitioner's FAP budget based on the SER application income information.
3. The Department located child support income when reviewing Petitioner's Consolidated Income Inquiry and included the income in Petitioner's FAP budget. Exhibit A, pp. 37-40.
4. On April 17, 2024, the Department sent Petitioner a Notice of Case Action indicating that her FAP benefit amount would decrease to \$85.00 per month effective May 1, 2024 to July 31, 2024. Exhibit A, pp. 11-16.

5. On April 22, 2024, the Department received Petitioner's request for hearing disputing the Department's determination of her FAP benefit.

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 income the Department used when determining her FAP benefit eligibility. Specifically, Petitioner disagrees with the child support amount and the inclusion of her son's (████) employment income in the budget.

Child support is money paid by an absent parent(s) for the living expenses of a child or children and may include medical, dental, childcare and educational expenses. Court-ordered child support may be either certified or direct. Certified support is retained by the state due to the child's Family Independence Program (FIP) activity and may include court-ordered medical support payments. Direct support is paid to the client. BEM 503 (April 2024) pp. 6-7. Direct support is countable unearned income to the client. BEM 503, p.6. The Department excludes certified support from a Petitioner's income. BEM 503, p.7.

Here, the Department included \$████ of monthly child support income in Petitioner's FAP budget. The Department relied on the Consolidated Income Inquiry search and budgeted child support payments that were paid to and received by Petitioner for Petitioner's now-adult children █████. Petitioner disputed the total child support amount and testified that she does not receive child support for █████. Petitioner testified the State of Michigan is taking █████ child support. The Consolidated Income Inquiry search displayed the child support for █████ as "Certified State Arrears" and listed amounts for January 2024 (\$████), February 2024 (\$████) and March 2024 (\$████). Exhibit A, p.38. Certified child support is excluded from the FAP budget. The Department improperly included the certified child support for █████ in Petitioner's FAP budget.

Petitioner also disputed the earned income amount of \$████ in the budget, which the Department testified was the sum of Petitioner and █████ gross monthly earned income.

Petitioner disagreed with the Department's inclusion of [REDACTED] income in the FAP budget because [REDACTED] is only [REDACTED] years old.

In FAP cases, Bridges disregards the earnings of an individual who is all of the following: under age 18; attending elementary, middle, high school, homeschooled, or attending classes to obtain a GED; and living with someone who provides care or supervision. BEM 501 (January 2024), p. 2.

Here, Petitioner testified that [REDACTED] date of birth was [REDACTED]. Because [REDACTED] is [REDACTED] years old, the Department properly included his employment income in Petitioner's FAP budget.

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 did not act in accordance with Department policy when the Department determined Petitioner's eligibility for FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED with respect to the calculation of the household's unearned income.**

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. Redetermine Petitioner's eligibility for FAP benefits effective May 1, 2024 ongoing, excluding the child support certified state arrears for [REDACTED];
2. If it is determined that Petitioner was eligible for more benefits than she was provided, issue supplements; and
3. Notify Petitioner in writing of its decision.

JN/cc



Julia Norton
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-18-Hearings
BSC4-HearingDecisions
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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