



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]
[REDACTED], MI [REDACTED]

Date Mailed: July 1, 2024
MOAHR Docket No.: 24-005690
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 June 24, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and was represented by [REDACTED] Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) and Family Independence Program (FIP) 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. On or around [REDACTED] 2023, Petitioner submitted an application for FIP benefits.
2. On or around November 13, 2023, the Department sent Petitioner a Notice of Case Action advising him that his FIP application was denied.
3. Petitioner was an ongoing recipient of FAP benefits. Petitioner's FAP eligibility was due for review.
4. On or around February 1, 2024, the Department sent Petitioner a Semi-Annual Contact Report (Semi-Annual) that was to be completed and returned to the Department by February 21, 2024.

5. On or around [REDACTED] 2024, Petitioner submitted an assistance application (MDHHS – 1171) requesting FAP benefits and State Emergency Relief.
6. The Department asserted that Petitioner did not submit the actual Semi-Annual form that was requested. The Department did not process the MDHHS-1171, as it asserted it could not be used in place of the Semi-Annual form and at the time, Petitioner's FAP case was still active.
7. On an unverified date, Petitioner's FAP case closed.
8. On or around [REDACTED] 2024, Petitioner reapplied for FAP benefits.
9. On or around May 3, 2024, Petitioner requested a hearing disputing the Department's action with respect to his FIP and FAP benefits.
10. On or around May 17, 2024, the Department sent Petitioner a Notice of Case Action advising him that he was approved for FAP benefits in the amount of \$145 for April 24, 2024, through April 30, 2024, and \$870 for the month of May 1, 2024, ongoing. (Exhibit A, pp. 8-12)

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Petitioner requested a hearing on May 3, 2024, disputing the Department's actions with respect to the FIP.

BAM 600, pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp. 4-6.

It was established that Petitioner applied for FIP benefits on [REDACTED] 2023, and the Department issued a Notice of Case Action denying the application on November 13, 2023. Petitioner's AHR did not dispute that he received the November 13, 2023, Notice of Case Action. There was no evidence that Petitioner submitted a request for hearing to dispute the denial of the FIP application prior to May 3, 2024. Department policy requires that an appeal be filed within 90 days of the negative case action. Therefore, Petitioner's May 3, 2024, hearing request was not timely filed within ninety days of the November 13, 2023, Notice of Case Action. Additionally, Petitioner reapplied for FIP benefits on or around May 7, 2024, after the request for hearing was submitted. Petitioner failed to show that there had been any negative action taken with respect to the FIP within the 90 days of his request for hearing. Thus, the hearing request with respect to FIP is, thereby, **DISMISSED** for lack of jurisdiction.

FAP

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.

Petitioner requested a hearing disputing the Department's actions with respect to the FAP. It was established that Petitioner was an ongoing recipient of FAP benefits and his case was closed for failure to submit a Semi-Annual. Petitioner subsequently reapplied for FAP benefits and was approved for ongoing FAP benefits. Petitioner disputed the closure of his FAP case as well as the amount of his ongoing FAP allotment in connection with his application.

The Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (January 2024), p. 1. For cases assigned a 12-month benefit period, the Department will send a MDHHS-1046 Semi-Annual Contact report the beginning of the fifth month. BAM 210, pp. 11-12. A complete MDHHS-1046 Semi-Annual Contact Report must be submitted by groups with countable earnings and a 12-month benefit period. The report is considered complete when all of the sections are answered and required verifications are submitted. BAM 210, p.12. If the MDHHS-1046 is not logged in by the end of the 10th day of the sixth month, a Notice of FAP Closure will be issued, reminding the client to submit the form, or the case will automatically close at the end of the month. BAM 210, p. 15.

At the hearing, the Department representative testified that because Petitioner's FAP eligibility was due for review, a Semi-Annual Contact Report was sent to Petitioner for completion on February 1, 2024. Petitioner was instructed to complete and return the form with all requested verifications prior to the end of the FAP benefit period. The

Department representative testified that Petitioner failed to submit the Semi-Annual form by the due date and as a result, his FAP case was closed. The exact date of the closure was unknown. Petitioner's AHR testified that the Semi-Annual was completed and returned to the Department in person, as well as uploaded to Petitioner's account online on February 21, 2024. The Department acknowledged receiving a MDHHS-1171 assistance application requesting State Emergency Relief and FAP from Petitioner on or around [REDACTED] 2024, but testified that it did not receive any completed Semi-Annual form. The Department representative testified that the assistance application could not be used in place of the Semi-Annual and because Petitioner's FAP case was still active, the new application for FAP benefits was not processed. Petitioner's AHR testified that he contacted the Department via telephone on more than one occasion to inquire about the Semi-Annual form that he indicated was submitted and was informed by someone from the Department that the Semi-Annual form was received but labeled incorrectly. The Department reviewed each entry in Petitioner's electronic case file in Bridges and retrieved each of the documents submitted. The Department representative testified that there was no Semi-Annual form received. Additionally, the Department reviewed the Case Comments in Bridges and indicated that none documented a contact with Petitioner that confirmed receipt of the Semi-Annual. Petitioner's AHR did not provide a copy of the documents submitted or any supporting evidence that the Semi-Annual was timely submitted to the Department prior to the end of the FAP benefit period. As a result, the Department properly closed Petitioner's FAP case.

As referenced above, Petitioner submitted a new application for FAP benefits to the Department that was processed and approved. Petitioner was approved for FAP benefits of \$870 monthly effective May 1, 2024, which Petitioner disputed. The Department presented a FAP EDG Net Income Results Budget and Budget Summary the May 17, 2024, Notice of Case Action which were thoroughly reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit A, pp. 8-18). Petitioner confirmed that the amounts relied upon by the Department with respect to earned income and housing expenses were all correct. The Department also presented the paystubs relied upon for the earned income calculation. The Department properly considered the appropriate deductions to income including the earned income deduction, the standard deduction, and the excess shelter deduction. BEM 500 (April 2022), pp. 1-5; BEM 505 (October 2023), pp. 1-9; BEM 550 (April 2023), pp. 1-2; BEM 554 (January 2024), p.1; BEM 556 (January 2023), pp. 1-8; RFT 255 (October 2023), p.1.

Petitioner's only dispute was with respect to the unearned income calculation. The Department determined that Petitioner had unearned income of [REDACTED] which the Department representative testified consisted of a contribution or donation from an individual outside of the household. The Department representative testified that on or around May 16, 2024, Petitioner submitted a letter to the Department indicating that he is receiving anywhere from [REDACTED] a month to help with bills, whenever the individual has extra money to give Petitioner. BEM 503 provides that the Department is to count the gross amount of the donation to an individual by family or friends as unearned income. BEM 503 (April 2024), pp. 10. Petitioner's AHR did not dispute that

the letter was submitted but asserted that Petitioner does not receive [REDACTED] each month. Petitioner's AHR maintained that Petitioner only receives about [REDACTED] each month and that a second letter was submitted to the Department on May 23, 2024, with the adjusted and what he asserted was a more accurate reflection of the monthly donation. The Department confirmed that the second letter was received and testified that the FAP budget will be recalculated to reflect the change reported. However, based on the information available to the Department at the time the budget was completed, the Department properly relied on the verification submitted by Petitioner and calculated the unearned income.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. The Department properly determined that Petitioner's household was eligible for FAP benefits in the amount of \$870 for May 1, 2024, ongoing.


Petitioner's AHR raise an additional concern with respect to the Department's failure to include a member of Petitioner's household ([REDACTED]) to the FAP group. Petitioner's AHR initially testified that Mariam was supposed to be added to the FAP group in November 2023 but was not added to the FAP group until March 2024. Upon review of Petitioner's case in Bridges, the Department representative testified that [REDACTED] was included as a household member effective January 1, 2024, and Petitioner received FAP benefits on her behalf. Petitioner's AHR testimony with respect to this issue was inconsistent as he later confirmed that benefits were received for [REDACTED] effective January 1, 2024. While this issue was raised as a concern, Petitioner's AHR also indicated during the hearing that he no longer wanted that matter addressed. Furthermore, Petitioner's AHR did not clearly identify when he reported to the Department that [REDACTED] should be added to the household and when the change was reported. Upon review, Petitioner's AHR failed to establish a negative action taken with respect to a failure to process a reported change.

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 processed Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the hearing request with respect to FIP is **DISMISSED** and the Department's FAP decision is **AFFIRMED**.

ZB/ml



Zainab A. Baydoun
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:

Respondent

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Interested Party

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED] MI [REDACTED]

Petitioner

[REDACTED] MI [REDACTED]