



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: September 24, 2024
MOAHR Docket No.: 24-009358
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on September 17, 2024, via teleconference. Petitioner appeared and represented herself. Devona Gilbert, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-50.

ISSUE

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?

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 ██████████ 2024, MDHHS sent Petitioner an employment verification form, indicating that proof of employment was due to MDHHS by May 20, 2024 (Exhibit A, p. 24). Petitioner returned the form, indicating that she normally received \$██████████ per month from the ██████████ (Employer) (Exhibit A, p. 25).
3. On May 22, 2024, MDHHS sent Petitioner a Benefit Notice stating that she was approved for FAP at a rate of \$██████████ per month, effective July 1, 2024 ongoing (Exhibit A, p. 12).

4. On [REDACTED] 2024, Petitioner applied for State Emergency Relief (SER) (Exhibit A, p. 18). Petitioner reported income from Employer (Exhibit A, p. 21).
5. On [REDACTED], 2024, Petitioner returned the Semi-Annual Contact Report to MDHHS for FAP (Exhibit A, p. 36). Petitioner indicated that she received \$[REDACTED] per month in employment income (Exhibit A, p. 37).
6. On July 22, 2024, Petitioner requested a hearing regarding her FAP benefits (Exhibit A, p. 5).
7. On August 15, 2024, Petitioner requested a hearing regarding her FAP benefits (Exhibit A, pp. 8-10).
8. On August 20, 2024, MDHHS sent Petitioner a Benefit Notice, indicating that her FAP benefits were both decreased to \$[REDACTED] per month and increased to \$[REDACTED] per month in July 2024 (Exhibit A, p. 47). The notice also indicated that Petitioner was approved for FAP benefits at a rate of \$[REDACTED] per month for August 2024 and approved for \$[REDACTED] per month August 1, 2024 ongoing (Exhibit A, p. 47).

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. MDHHS 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 disputed her FAP benefit rate. FAP beneficiaries are entitled to dispute their benefit amount whenever they believe that the amount is incorrect. BAM 600 (February 2024), p. 5.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. BEM 500 (April 2022), pp. 1-5. A group's benefits for a month are based, in part, on a prospective income determination. BEM 505 (October 2023), p. 1. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. *Id.* Each source of income is converted to a standard monthly amount unless a full month's income will not be received. *Id.* For past months, MDHHS uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. *Id.*, p. 3. Additionally, MDHHS is required to discard

a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.*, p. 6.

Here, MDHHS determined that Petitioner received \$[REDACTED] per month in [REDACTED] 2024 and then received \$[REDACTED] per month from [REDACTED] 1, 2024 ongoing (Exhibit A, p. 43). Petitioner disputed the increase and testified that she normally receives \$[REDACTED] per month from Employer. Petitioner reported on the Semi-Annual Contact Report that she received \$[REDACTED] per month in employment income (Exhibit A, p. 37). She further testified that it is rare that she would receive \$[REDACTED] per month. MDHHS failed to adequately explain the basis for the increase in Petitioner's income.

Additionally, MDHHS sent a Benefit Notice with contradictory information. For July 2024, the notice indicated that she was both eligible for \$[REDACTED] per month and \$[REDACTED] per month in FAP benefits for a one-person group. Petitioner did not dispute the removal of her daughter from her FAP group in the month of July. Petitioner's daughter was added back into the FAP group in August 2024, ongoing. Petitioner did not dispute this action. The Benefit Notice also contained contradictory information for August 1, 2024, ongoing. The notice stated that she was eligible for \$[REDACTED] in FAP benefits for the month of August 2024 and eligible for \$[REDACTED].00 in FAP benefits from August 1, 2024 ongoing. Due to these discrepancies, MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 FAP benefit rate, effective July 1, 2024 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from July 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/pt



Linda Jordan
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
Elisa Daly
Saginaw County DHHS
411 East Genesee
Saginaw, MI 48607
MDHHS-Saginaw-Hearings@michigan.gov

Interested Parties
BSC2
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]