



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR



Date Mailed: October 28, 2024  
MOAHR Docket No.: 24-009702  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on October 23, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) did not appear.

On request of Petitioner, the Department's 19-page hearing packet was entered into evidence as Petitioner's Exhibit 1.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for August 2024?

### **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 four-person FAP group.
2. In July 2024, Petitioner completed a redetermination application.
3. On August 21, 2024, Petitioner requested a hearing to dispute the closure of her FAP case. (Exhibit 1, pp. 3 – 4).
4. On August 21, 2024, the Department issued a Notice of Case Action (NOCA) that closed Petitioner's FAP case for August 2024 due to excess net income, and

approved Petitioner for FAP in the amount of \$214 per month effective September 1, 2024 ongoing. (Exhibit 1, pp. 6 – 7).

### **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).

Petitioner requested a hearing to dispute the closure of her FAP case. Petitioner's request for hearing also indicated a dispute regarding Medicaid (MA). At the onset of the hearing, Petitioner testified that her request as to MA was in error and requested to withdraw that request. Therefore, Petitioner's request for hearing regarding MA is dismissed.

The only remaining issue to be decided is whether the Department properly closed Petitioner's FAP case for August 2024.

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 to dispute closure of her FAP case for August 2024. The Department closed Petitioner's FAP case for August 2024 due to excess net income.

To determine whether the Department properly determined Petitioner's FAP net income eligibility, all countable earned and unearned income available to the Petitioner must be considered. BEM 500 (April 2022), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 505 (October 2023), p. 1. Wages from employment are earned income. BEM 501 (January 2024), pp. 6 – 7.

In calculating earned income for FAP purposes, the Department uses actual income for the processing month but must prospect income for future months. BEM 505, pp. 1, 6. Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month. BEM 505, pp. 1, 6. To prospect income, the Department considers the past 30 days of income, or 60 to 90 days if they more accurately reflect ongoing income. BEM 505, pp. 6 – 7. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of bi-weekly amounts is multiplied by 2.15. BEM 505, pp. 8 – 9.

In this case, Petitioner testified that the four-person FAP household's only source of income is from Petitioner's employment. She reported that she earns \$ [REDACTED] per hour, works an average of 40 hours per week, and is paid bi-weekly. Because the Department was not present during the hearing, the only available evidence of the Department's calculation of Petitioner's income was the budget summary included on the NOCA. (Exhibit A, p. 7). Because the earned income reported on the budget summary conflicts with Petitioner's testimony, and no evidence to the contrary was available, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner had excess net income for FAP benefits for August 2024.

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 closed Petitioner's FAP case for August 2024 due to excess net income.


### **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. Redetermine Petitioner's eligibility for FAP benefits for August 2024;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not for August 2024; and
3. Notify Petitioner of its decision in writing.

CML/nr

  
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**Caralyce M. Lassner**  
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**

Tracey Jones  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033  
**MDHHS-Oakland-6303-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]