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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
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Date Mailed: November 8, 2024  
MOAHR Docket No.: 24-011173  
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 October 29, 2024, via teleconference. Petitioner appeared and represented himself. Leanne Scupholm, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-28.

**ISSUE**

Did MDHHS 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 ██████████ 2024, Petitioner returned a New Hire Client Notice for income received by household member, ██████████ (Daughter) (Exhibit A, p. 6).
3. On ██████████ 2024, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of earnings for Daughter (Exhibit A, p. 8).
4. On ██████████ 2024, Petitioner provided paystubs for Daughter’s employment (Exhibit A, pp. 11-13).

5. On September 11, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that the household FAP benefits were closed for the month of September and approved at a rate of \$ [REDACTED] per month for a household of two, beginning October 1, 2024 (Exhibit A, p. 15). The Notice indicated that Daughter was not in the household because she was active on another case (Exhibit A, p. 15). The FAP benefit rate was based on \$ [REDACTED] in unearned income (Exhibit A, p. 17).
6. On September 27, 2024, Petitioner requested a hearing regarding his FAP benefits (Exhibit A, p. 3).

### **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 MDHHS determinations regarding his eligibility for FAP benefits.

To determine an individual's eligibility for FAP benefits, MDHHS must determine the individual's household size. To determine FAP group composition, MDHHS considers (i) who lives together; (ii) the relationships of the people who live together; (iii) whether the people living together prepare food together; and (iv) whether the person resides in a special living situation which requires the consideration of other factors. BEM 212 (March 2024), p. 1. Living together means sharing a home where family members usually sleep and share any common living quarters, excluding access areas such as an entrance or hallway or a laundry area. *Id.*, p. 3.

MDHHS must also determine mandatory and non-mandatory group members based on the relationship of the people who live together. BEM 212, p. 1. If individuals are mandatory group members, they must be included in the same FAP group. *Id.* If they are non-mandatory group members, then MDHHS considers the factors listed above. *Id.* Parents and their children under age 22 who live together must be in the same group regardless of whether the children have their own spouse or a child who lives in the group. *Id.*

MDHHS testified that Daughter should be included in Petitioner's FAP group. However, the Notice of Case Action indicated that Daughter was not in the household because she was active on another case (Exhibit A, p. 15). The household size on the notice indicated

that Petitioner had a group of two, excluding Daughter (Exhibit A, p. 15). However, the budgets that MDHHS presented at the hearing show that Petitioner had a FAP group of four (Exhibit A, p. 21). The reason for the discrepancy in group size is unclear from the record.

Petitioner testified that Daughter should not be included in the household because she only stays there on a limited basis. He further testified that her income was not properly budgeted because it varies substantially. However, the budgets presented do not include Daughter's income. It is unclear why the income was not included if MDHHS determined that she should have been in the household.

Petitioner further testified that MDHHS did not properly determine the household's unearned income. MDHHS stated that the unearned income for the household was based on Petitioner receiving \$[REDACTED] in Retirement, Survivors and Disability Insurance (RSDI), Petitioner's son receiving \$[REDACTED] in RSDI and \$[REDACTED] in child support. Petitioner did not dispute the amount that he received in RSDI, but disputed the amount that his son received, testifying that he only received \$[REDACTED] per month after a fee is deducted from a third party.

For RSDI, MDHHS counts the gross monthly amount. BEM 503 (April 2024), p. 29. SSA authorizes qualified organizations to deduct a fee for acting as a representative payee. *Id.*, p. 30. MDHHS must exclude the fee withheld by an authorized organization. *Id.*

Given the discrepancies in the household size, and the disputed earned and unearned income calculations, MDHHS should have attempted to verify this information, pursuant to polices in BAM 130, Verification and Collateral Contacts (May 2024). If the reduction in Petitioner's son's RSDI was due to an organization deducting a fee for acting as a representative payee, the fee should have been excluded from the income calculation.


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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits.

**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 eligibility for FAP benefits, from September 1, 2024 ongoing, requesting additional information regarding group composition and income, as necessary;
2. Provide supplemental payments for any FAP benefits that the household was eligible to receive, but did not, from September 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/pt



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**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**  
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**Interested Parties**  
BSC3  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED]  
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