



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 8, 2024
MOAHR Docket No.: 24-011212
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 29, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Jennifer Richard, Assistance payments supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-22.

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 receiving FAP benefits in the amount of \$[REDACTED] (Exhibit A, p. 1).
2. On July [REDACTED] 2024, Petitioner submitted a change report regarding new employment income. Petitioner reported she works an average of 24 hours per week at \$[REDACTED] per hour. (Exhibit A, pp. 6-7)
3. On July [REDACTED] 2024, Petitioner submitted an application for State Emergency Relief benefits and a utility bill. (Exhibit A, pp. 14 and 22)

4. The updated income resulted in a decrease in the monthly FAP benefit amount to \$[REDACTED] effective September 1, 2024. No written notice of the case action was issued. (Exhibit A, pp. 2, 15, and 17)
5. On September [REDACTED] 2024, Petitioner contacted the Department regarding the decrease in FAP benefits and reported her income decreased, Petitioner was advised to submit 30 days of paystubs. (Exhibit A, p. 22)
6. On September [REDACTED] 2024 and September [REDACTED] 2024, Petitioner provided verification of employment income. The paycheck stubs showed Petitioner worked less than 24 hours per week and earns \$[REDACTED] per hour. (Exhibit A, pp. 8-13)
7. The updated income resulted in a change in the monthly FAP benefit amount to \$[REDACTED] effective October 1, 2024. No written notice of the case action was issued. (Exhibit A, pp. 2, 16, and 18)
8. On September 30, 2024, Petitioner requested a hearing contesting the Department's actions. (Exhibit A, p. 4)
9. On October [REDACTED] 2024, the Department updated income to exclude the September [REDACTED] 2024 paycheck due to decreased hours for that check. (Exhibit A, p. 21)
10. Effective November 1, 2024, Petitioner's monthly FAP benefit amount increased to \$[REDACTED] (Exhibit A, p. 19)

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.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, November 1, 2023, p. 2.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. See Adequate Notice and, for FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220, pp. 4-5.

For FAP, a notice of case action is not sent in the following situations. The action must take effect no later than the month after the change. The situations are: reliable information indicates the group left the state; reliable information indicates all members died. Reliable sources generally include a newspaper, friends or relatives of the group, or other agencies; supplementation over multiple months to restore lost benefits is completed, see BAM 406, Supplemental Food Assistance Benefits; from a joint FIP/SDA and FAP application, the FAP benefit began first and the FAP approval letter indicated the benefit might decrease if FIP/SDA were later approved; the FAP benefit varies from month to month within the benefit period due to changes anticipated when the case was certified, and the group was so notified at that time; benefits are reduced for failure to repay a FAP overissuance that resulted from IPV (BAM 720, Intentional Program Violation) or client error (BAM 715, Client/CDC Provider Violation), see BAM 725, Collection Actions; the FAP certification period has expired and redetermination application was not filed; or the group voluntarily requests closure in writing. BAM 220, p. 5.

The Department counts the gross wages as income from employment. BEM 501, pp. 6-7.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (February 1, 2024), p. 13. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, pp. 16-17. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22.

In this case, the Department acknowledged no written notices were issued to Petitioner of the changes in the FAP benefit amount. (Exhibit A, p. 2; APS Testimony). This was not in accordance with the BAM 220 policy addressing case actions.

Further, it appears that the Department initially utilized the reported new income information from the change report without obtaining verification. However, from the paycheck verifications submitted, it does not appear that the information reported on the change report form was accurate regarding the hours worked or the wage. On the July █ 2024 change report Petitioner reported she works an average of 24 hours per week at \$█ per hour. (Exhibit A, pp. 6-7). However, the paycheck stubs Petitioner provided on September █ 2024, showed Petitioner worked less than 24 hours per week and earns \$█ per hour. (Exhibit A, pp. 10-13). The Department also indicated they only used the information from one of these two paycheck stubs because the hours worked on the September █ 2024 paycheck were abnormally low. (Exhibit A, p. 2).

Overall, the evidence establishes that the Department did not act in accordance with policy when no written notices of case action were issued to Petitioner of the changes in her FAP eligibility. Further, it appears that additional verification of Petitioner's income from the reported change in employment should have been obtained to more accurately determine FAP eligibility. There are discrepancies between the reported expected hours worked and wage amount compared to what is shown on the paycheck verifications that were later received.

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 it determined Petitioner's eligibility for FAP.

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 as of the September 1, 2024, effective date in accordance with Department policy.

CL/dm



Colleen Lack
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
Kimberly Kornoelje
Kent County DHHS
MDHHS-Kent-
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HoldenM

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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]