



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]
[REDACTED], MI [REDACTED]

Date Mailed: December 20, 2024
MOAHR Docket No.: 24-012640
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 December 11, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Arnesia Woods, Eligibility Specialist, and Eileen Kott, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective December 1, 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 benefits for herself and her minor child and was a simplified reporter (SR). (Exhibit A, pp. 7 – 17).
2. On or before October 26, 2024, the Department received an automated update of unemployment income for Petitioner and added the unemployment income to Petitioner's case. (Exhibit A, p. 1).
3. On October 26, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that notified Petitioner her FAP case would close effective December 1, 2024 due to gross excess income. (Exhibit A, pp. 20 – 21).

4. On November 6, 2024, the Department received a request for hearing from Petitioner that disputed the Department's closure of Petitioner's case, reported that Petitioner was laid off from her employment with Magna (Employer), and included a letter from Employer dated September 30, 2024 and addressed to all employees of Employer at Detroit notifying them of a temporary lay-off. (Exhibit A, pp. 3 – 6).
5. On November 7, 2024, the Department and Petitioner had an in-person meeting at the local office regarding her income and employment and Petitioner confirmed that she was temporarily laid off from Employer. (Exhibit A, p. 1).

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.

Petitioner requested a hearing to dispute the Department's closure of her FAP case effective December 1, 2024. The Department closed Petitioner's FAP case due to excess gross income.

Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means. BAM 220 (November 2023), p. 1. Generally, when a change in circumstances is received from a source other than the client, including consolidated inquiry reports, and will result in the reduction of FAP benefits or closure of the FAP case, the Department sends notice of the proposed reduction or closure at least 11 days prior to the effective date to allow the client time to react to the action. BAM 220 (November 2023), pp. 4 – 5; see also BAM 200 (October 2024), p. 5.

When a client reports a change in income and verification of the change is necessary, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (May 2024), p. 3; BAM 220, pp. 7 – 8. Before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between the client's statements and information from another source. BAM 130, p. 9. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department is to use the best available information, and if no evidence is available, it is to use its best judgment. BAM 130, p. 4.

Here, the Department testified that it received information through an automated update that Petitioner was receiving unemployment compensation and added the unemployment compensation to her monthly income from employment. The addition of the unemployment compensation caused Petitioner to exceed the gross income limits for her FAP group and the Department issued a NOCA on October 26, 2024 that notified Petitioner her FAP case would close effective December 1, 2024.

As a SR, Petitioner was not required to report any changes in her income unless her income exceeded the SR limit on the NOCA issued to her on August 21, 2024. BAM 200, p. 1. However, on November 6, 2024, Petitioner submitted a request for hearing to dispute the closure of her FAP case, reported that she was laid off, and provided a copy of a letter from Employer dated September 30, 2024 addressed to all employees of Employer notifying them of a temporary lay-off effective September 27, 2024. On November 7, 2024, Petitioner also went to the local Department office and discussed the matter with a worker.

At the hearing, the Department testified that it was unable to rely on the letter provided by Petitioner because it did not have her name on it, and provided Petitioner with a verification of employment form to be completed by Employer. However, Petitioner testified that she told the Department she wouldn't be able to have the form completed by Employer because Employer was closed during the layoff. Although the Department testified that it included a due date on the verification of employment form, Petitioner disputed the Department's testimony and a copy of the verification form was not offered into evidence. Additionally, there was no evidence that the Department issued a Verification Checklist (VCL) to Petitioner, retrieved a Work Number report from Employer through Equifax, or otherwise used the best available information or its best judgment regarding Petitioner's lay-off as reported to it prior to the closure of Petitioner's FAP case. Therefore, the Department failed to establish that it acted in accordance with policy when Petitioner reported that she was laid off.

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 to process the change in Petitioner's income that she reported prior to the effective date of the closure of her FAP case.

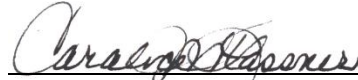
DECISION AND ORDER

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 effective December 1, 2024 ongoing;
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, from December 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



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

Dora Allen

Wayne-Gratiot/Seven-DHHS

4733 Conner Suite G 7 Lappin

Detroit, MI 48215

MDHHS-Wayne-76-Hearings@michigan.gov

Interested Parties

BSC4

M. Holden

N. Denson-Sogbaka

B. Cabanaw

MOAHR

Via-First Class Mail :

Petitioner

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