



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

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Date Mailed: December 27, 2024
MOAHR Docket No.: 24-013068
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On November 21, 2024, Petitioner, ██████████ requested a hearing to dispute a Food Assistance Program (FAP) and Family Independence Program (FIP) cash assistance benefit determination. As a result, a hearing was scheduled to be held on December 19, 2024, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. ██████████ Petitioner's healthcare worker, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Bernice Ray, Overpayment Establishment Analyst.

ISSUES

Did the Department properly determine Petitioner's FAP benefits beginning October 1, 2024?

Did the Department properly determine Petitioner's eligibility for FIP cash assistance benefits beginning September 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. On ██████████ 2024, Petitioner submitted a renew benefits form and reported that her household consists of herself and her son. Further, she reported that her son receives SSI income.
2. On June 28, 2024, an intentional program violation client notice was issued stating that from July 1, 2024, to June 30, 2025, Petitioner is ineligible for FAP benefits and is disqualified from receiving FIP cash assistance benefits.
3. On September 6, 2024, a notice of case action was issued denying Petitioner FIP cash assistance beginning September 1, 2024, for failing to return verification of

Petitioner's disability. Further, the notice advised Petitioner that FAP benefits were increased to \$110.00 per month from October 1, 2024, to April 30, 2025, based on a household consisting only of Petitioner's son.

4. On November 21, 2024, Petitioner requested a hearing to dispute the Department's determination.

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 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.

In Petitioner's November 21, 2024, request for hearing, Petitioner states, "I am appealing the amount of food assistance. My son was a child when this "alleged" overpayment occurred [sic] he is not responsible for any repayment." Further, Petitioner stated, "Therefore I am not guilty of IPV and should have my benefits reinstated so I DONT [sic] STARVE! I am appealing this decision to deny cash for disability proof not provided. I have turned in numerous medical needs forms stating my inability to work for lifetime."

At the hearing, Petitioner indicated that she did not agree with her son being found liable to repay an overpayment. Further, Petitioner stated that she was appealing the Department's September 6, 2024, notice of case action.

As to Petitioner's request for hearing regarding a FAP overpayment, on June 20, 2024, a court determined that Petitioner committed an Intentional Program Violation (IPV) for FAP and FIP. On June 28, 2024, Petitioner was notified that she was disqualified for FAP and FIP benefits, and she was required to repay FAP and FIP benefits she was not entitled to receive. There is no jurisdiction for an administrative hearing regarding the IPV determination because there is a court decision.

In this case, the Department determined that Petitioner was eligible for \$110.00 per month in FAP benefits from October 1, 2024, through April 30, 2025, based on a household size of 1. In Petitioner's November 21, 2024, request for hearing, Petitioner stated that she was appealing the amount of food assistance received.

However, the Department's Hearing Summary packet did not include the applicable budget to show how the Department determined the amounts listed in the budget summary on the September 6, 2024, notice of case action that was appealed in this

matter. The Department did not show they properly calculated Petitioner's budget when making its eligibility determination. Accordingly, the Department failed to meet its burden of going forward and establishing that it properly determined Petitioner's eligibility for FAP benefits.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (May 1, 2024), p. 1. The Department must tell a client what verification is required, how to obtain it, and the due date. *Id.* at p. 3. The Department must allow the client 10 calendar days (or other time limit specified in policy) to provide requested verification. *Id.* at p. 7. Verifications are only considered timely if they are received by the due date. *Id.* The Department must send a Negative Action Notice when the client refuses to provide the verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

The Department's Hearing Summary packet did not include any evidence of verifications that were requested by the Department and that Petitioner failed to provide the requested verifications by the due date prior to the issuance of the September 6, 2024, denial. Therefore, the Department improperly determined Petitioner's eligibility for FIP cash assistance benefits beginning September 1, 2024.

Although the Department's decision is reversed, that does not mean that Petitioner is eligible for FIP cash assistance; it simply means that the Department did not properly deny Petitioner's request for FIP cash assistance. The Department may still require Petitioner to provide verifications. If the Department requires Petitioner to provide verifications, the Department must advise Petitioner of the verification required, how to obtain it, and the due date.

DECISION AND ORDER

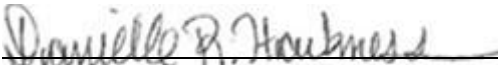
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to establish that it properly determined Petitioner's eligibility for FAP benefits beginning October 1, 2024, and Petitioner's eligibility for FIP cash assistance benefits beginning September 1, 2024.

IT IS ORDERED that 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 beginning October 1, 2024.
2. Issue any FAP benefits that Petitioner is otherwise eligible to receive.
3. Redetermine Petitioner's eligibility for FIP cash assistance benefits beginning September 1, 2024.

DH/pt


Danielle R. Harkness
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:

Agency Representative

Bernice Ray
Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
Lansing, MI 48933

MDHHS-Recoupment-Hearings@michigan.gov

DHHS

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Interested Parties

BSC4
M Holden
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N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner

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