



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 26, 2017
MAHS Docket No.: 17-005297
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 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 ██████████ ██████████ from Detroit, Michigan. The Petitioner was represented by herself and her husband, ██████████. A ██████████ translator, ██████████, appeared on behalf of the Petitioner. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close the Petitioner's Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP benefits.
2. The Petitioner completed a Semi-Annual Report dated ██████████, and indicated no changes. The Petitioner confirmed that no change was reported.
3. The Department sent verifications of employment to the Petitioner for herself and her spouse in ██████████ at the time of the application. No recent verifications were sent to the Petitioner as part of the semi-annual review.

4. The Petitioner provided pay stubs for her husband to the Department on [REDACTED], for [REDACTED], for pay dates [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. The pay stubs were returned pursuant to a request for Employment verification. The pay stubs were submitted prior to the semi-annual. [Exhibit B.]
5. The gross earned income for the group was determined to be [REDACTED]. Based upon the four pay stubs provided to the Department, the Petitioner's husband's income was \$ [REDACTED].
6. The Petitioner was unemployed at the time she filed the semi-annual report but did not report the change (loss of employment). The Petitioner marked no change to the question on the semi-annual regarding changes.
7. The Department determined the FAP group size to be three, which was correct.
8. The Department, after its review, included the Petitioner's income she had originally reported at application and her husband's income when calculating FAP benefits based upon the answer to the Semi-Annual Report of no changes. Based on the Petitioner's and her spouse's incomes, the Department determined that Petitioner's group's income made her ineligible due to excess income.
9. The Department issued a Notice of Case Action on [REDACTED], closing the Petitioner's FAP benefits because the Net Income, as calculated by the Department, exceeded the income limit. [Exhibit A.]
10. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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.

In this case, because the Petitioner answered "No" to the question on the semi-annual indicating that there were no changes, including Petitioner's income, the Department properly included the Petitioner's income when calculating FAP benefits, even though

she was not working. The Department was permitted to rely on the Petitioner's answer regarding no changes even though in retrospect it was not correct. There would be no basis for the Department to determine otherwise.

Based upon the evidence provided it is determined that based upon income of \$ [REDACTED] for a group of three persons, the Petitioner was not eligible for FAP benefits as the FAP groups' total gross income exceeded the income limit. RFT 260 (October 1, 2016), p. 39. Based on the four pay stubs provided for her husband, the Petitioner's husband's gross income was \$ [REDACTED] without including the Petitioner's income which the Department credibly testified was \$ [REDACTED] per week. When Petitioner's income is converted, the total gross income would be \$ [REDACTED] ($\$ [REDACTED] \times 4.3 = \$ [REDACTED]$). See BEM 505, (April 1, 2017) p. 9, for converting earned income. When the two incomes are added together, the total income would have resulted in \$ [REDACTED] in gross income, making the group's income over the gross income limit for a group of three persons of \$ [REDACTED]. RFT 250 (October 1, 2016), p. 1. Even though the \$ [REDACTED] as determined by the Department was not correct, the income as calculated herein still results in income exceeding the gross income limit. Had the Petitioner verified rent and verified payment for heat or electricity, the result would have been different.


The Petitioner can reapply for FAP at any time.

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 acted in accordance with Department policy when it closed the Petitioner's FAP case due to excess income.

Accordingly, the Department's decision is **AFFIRMED**.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
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