



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: April 19, 2018  
MAHS Docket No.: 18-002776  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 April 19, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Eligibility Specialist, and ██████████ ██████████, Family Independence Manager.

**ISSUE**

Did the Department properly close Petitioner's 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's was an ongoing FAP recipient and has a group size of three.
2. In December 2017 or January 2018, Petitioner submitted his Semi-Annual Contact Report.
3. On January 2, 2018, the Department processed the report.
4. On January 11, 2018, Petitioner submitted pay stubs from ██████████ (Employer 1) covering the pay dates of December 16, 2017; December 23, 2017; and December 30, 2017; and ██████████ (Employer 2) for the pay dates November 24, 2017; December 1, 2017; December 8, 2017; and December 15, 2017.

5. On February 26, 2018, the Department updated Petitioner's income in his FAP case including income from both Employer 1 and 2.
6. On the same day, the Department issued a Notice of Case Action holding Petitioner ineligible for FAP benefits effective February 1, 2018, as a result of income over the gross income limit.
7. On March 7, 2018, Petitioner submitted a hearing request disputing the closure of his FAP case.

### **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, the Department closed Petitioner's FAP case after determining that he was over the income limit. Petitioner had a group size of three. Based upon his group size, the Gross Income Limit was \$2,213. RFT 250 (October 2017), p. 1.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

Petitioner provided paystubs for Employer 1 and Employer 2 on January 11, 2018. The pay stubs from Employer 1 show a paycheck issued on a weekly basis and represent the period from December 10, 2017, through December 30, 2017. For each of the three weeks presented, Petitioner received \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED] in gross wages. Therefore, Petitioner's standardized monthly income from Employer 1 is \$ [REDACTED] (the average of Employer 1 wages multiplied by 4.3). *Id.* For Employer 2, Petitioner received weekly paystubs and the paystubs represent the period from November 12, 2017, through December 9, 2017. Petitioner's gross pay for each week during this period was \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]. *Id.* Therefore, Petitioner's standardized monthly income is \$ [REDACTED] (the average of Employer 2 wages multiplied by 4.3). Employment with either of these employers places Petitioner well above the gross income limit. RFT 250, p. 1.

It should be noted that Petitioner indicated he was not working for either of these employers or a third employer at the same time but contradicted himself when he said he worked for the third employer since December 2017 while he also provided paystubs from Employer 1 in December 2017. Despite these statements, given the above calculations, Petitioner was above the gross income limit with Employer 1 and/or Employer 2. No evidence was presented of income from the third employer, so a determination of eligibility based upon additional income from the third employer or standalone income from the third employer cannot be made.

Lastly, in the Gross Income and Net Income tests, the Department calculated an earned income for Petitioner of \$ [REDACTED]. The calculation of Petitioner's income to reach this number is unclear. The correct standardized monthly incomes are shown above. Regardless of the Department's improper calculation, the Department still came to the correct conclusion that Petitioner was above the gross income limit.

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 determined Petitioner to be above the gross income limit and closed his FAP case effective February 1, 2018.

### **DECISION AND ORDER**

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



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**Amanda M. T. Marler**  
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

**DHHS**

[REDACTED]  
[REDACTED]

**Petitioner**

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