



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: March 4, 2019
MAHS Docket No.: 19-000637
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 28, 2019, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Janice Alberda Family Independence Specialist. Becky Fraser Family Independence Manager also appeared for the Department. Department Exhibit 1, pp. 1-56 was received and admitted. Petitioner's Exhibit A, pp. 1-20 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits due to excess income?

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 a recipient of FAP benefits receiving \$281 per month.
2. Following redetermination Petitioner's FAP benefits were closed due to excess income effective January 1, 2019.
3. On January 2, 2019, Notice of Case Action was sent to Petitioner informing him that FAP benefits were closing effective January 1, 2019.
4. Petitioner receives Social Security benefits of \$ [REDACTED] per month.

5. Petitioner's wife earns \$[REDACTED] in employment income per month.

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.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. BEM 550

In this case, Petitioner receives \$[REDACTED] in unearned income. Petitioner's wife receives \$[REDACTED] in employment income. After deducting the earned income deduction and the standard deduction, Petitioner's household has \$[REDACTED] in net income. BEM 554 The net income limit for FAP for a group size of 5 is \$2,452. RFT 250 Therefore, the Department closure due to excess income was proper and correct.


Petitioner testified at hearing that his wife's income fluctuates. The Department representative testified that Petitioner's wife's income was reviewed for December 2018 and January 2019 and the household was excess income for both of those months. FAP benefits are budgeted based on the calendar month. BEM 550 Petitioner was advised that if his wife's income is lower for subsequent months then he should reapply. Petitioner raised issues with regard to the timing of his redetermination and suggested that if the redetermination had been completed in November 2018, he may still be eligible for FAP. It was explained that Petitioner was required to report changes in the amounts of his wife's employment income and the household would have been excess income for December 2018 and January 2019 regardless of when the redetermination was processed.

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 Petitioner's FAP case due to excess income.

DECISION AND ORDER

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

AM/nr



Aaron McClintic
Administrative Law Judge
for Robert Gordon, 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) 763-0155; 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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
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[REDACTED], MI
[REDACTED]