



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 31, 2019
MOAHR Docket No.: 19-004625
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 29, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Victoria Foley, Hearings Facilitator.

Respondent's Exhibits A.1-A.35 were admitted.

ISSUE

Did the Department properly close Petitioner's 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. At all relevant times, Petitioner has been a beneficiary of the FAP program for herself and her children.
2. Petitioner's FAP case was scheduled for redetermination in April of 2019.
3. Pursuant to the redetermination, the Respondent discovered that Petitioner began receiving \$██████████ per month in SS income for each child.
4. Petitioner's household unearned income is ██████████ per month; the monthly cap for FAP benefits is \$2,092.00.

5. On April 4, 2019, the Respondent issued a Notice of Case Action informing Petitioner that effective May 1, 2019, and ongoing, Petitioner's FAP case will close due to excess income.
6. On May 1, 2019, Petitioner filed a hearing request.

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.

Specific policy to the case herein is found at BEM 550, 554, and 556. Corresponding federal regulations are found at 7 CFR 273.9;.10(c).

In this case, Respondent argues that Petitioner was not eligible and thus, under federal and state law it was required to close. Petitioner argued in her hearing request that she did not receive the income on behalf of her children. However, at the administrative hearing, Petitioner stipulated that the income used in calculating the FAP budget was correct. Petitioner also stipulated that she is receiving \$ [REDACTED] per child in social security benefits per month.

As the evidence used in calculating the FAP budget and the subsequent case closure due to excess income is unrefuted, the FAP closure is upheld.


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.

JS/dh



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

DHHS

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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