



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: April 9, 2019
MAHS Docket No.: 19-002016
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 1, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Latonya Johnson, Assistance Payments Worker/Eligibility Specialist.

ISSUE

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

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 an ongoing FAP recipient.
2. On February 6, 2019, the Department completed a mass update for FAP cases in Bridges.
3. On the same day, a Notice of Case Action was issued by the Department to Petitioner notifying her that her FAP case would close effective March 1, 2019, because her household net income was above the net income limit.
4. On February 19, 2019, the Department received Petitioner's request for hearing disputing the closure of her FAP benefits and calculation of her income.

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, Petitioner disputes the Department's closure of her FAP case based upon excess net income. Policy provides that all clients must have income below the net income limit which for a group size of two effective March 2019 was \$1,372.00. BEM 550 (January 2017), p. 1; RFT 250 (October 2018), 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.

Petitioner's husband is entitled to a Veterans Affairs (VA) benefit in the amount of \$[REDACTED] per month. His benefit is reduced each month to \$[REDACTED] per month because he is on a payment plan for a debt that was previously established for his VA award. Policy provides that the Department is required to consider the gross amount of a VA pension or compensation payment as unearned income. BEM 503 (January 2018), p. 37. Since this income is received on a monthly basis, no further calculation is required to standardize it. In the Department's calculation of benefit as shown on the Notice of Case Action dated February 6, 2019, the Department mistakenly double counted Petitioner's husband's VA benefit. The household had no other income.

After consideration of income, the Department considers all appropriate deductions and expenses. The group is potentially eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.

BEM 550 (January 2017), pp. 1-1; BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department budgeted \$0.00 for a child support and dependent care expense. Petitioner did not dispute that that household does not have these expenses. The Department also budgeted the standard deduction of \$158.00 for a group size of two in accordance with Department policy. RFT 255 (October 2018), p. 1. Finally, no evidence was presented that Petitioner or her husband had any eligible medical expense deductions. After consideration of all of these expenses, the group's Adjusted Gross Income (AGI) was \$ [REDACTED]

Once the Adjusted Gross Income (AGI) is calculated, the Department must then consider the Excess Shelter Deduction. The Department budgeted a rental expense of \$169.00 which Petitioner did not dispute. In addition to the rental expense, the Department properly afforded Petitioner the Heat and Utility (H/U) standard of \$543.00. BEM 554, pp. 14-15; RFT 255, p. 1. Once the rental expense and H/U standard are added together, 50% of Petitioner's AGI is subtracted to achieve Petitioner's Excess Shelter Deduction. BEM 556, p. 5. Therefore, Petitioner's Excess Shelter Deduction is \$52.00. BEM 554, p. 1.

Next, the Excess Shelter Deduction is subtracted from Petitioner's AGI to achieve her Net Income of \$ [REDACTED]. Petitioner's FAP group net income is below the net 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 did not act in accordance with Department policy when it determined that Petitioner's FAP group had income over the net income limit and closed her case effective March 1, 2019.

DECISION AND ORDER

Accordingly, 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. Reinstate Petitioner's FAP case effective March 1, 2019;

2. Recalculate Petitioner's FAP benefit rate;
3. Issue supplement's to Petitioner for benefits not previously received; and,
4. Notify Petitioner in writing of the Department's decision.



AMTM/jaf

Amanda M. T. Marler
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

Lori Duda
MDHHS-Oakland-2-Hearings

Petitioner

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M Holden
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