



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 26, 2019
MOAHR Docket No.: 19-011383
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 November 20, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Julie Cylla, Family Independence Manager; Deverette Maxey, Eligibility Specialist; and Swanzetta Wilson, Recoupment Specialist.

ISSUE

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

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 [REDACTED] 2019, Petitioner obtained employment at [REDACTED] (Exhibit A, p. 56).
3. A Quality Control (QC) audit was completed and it was discovered that the Department had received notification that Petitioner was employed but did not act on that information (Exhibit A, pp. 7-29).
4. Petitioner's household consisted of herself and her two children.

5. Petitioner had earned income from employment (Exhibit A, pp. 55-66).
6. Petitioner's child had unearned income in the form of [REDACTED] benefits in the gross monthly amount of [REDACTED] and [REDACTED] benefits in the gross monthly amount of [REDACTED]
7. On [REDACTED] 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FAP benefit case was closing effective [REDACTED], 2019, ongoing (Exhibit A, pp. 67-71).
8. On [REDACTED] 2019, Petitioner submitted an application for FAP benefits.
9. On [REDACTED], 2019, the Department sent Petitioner a NOCA informing her that her FAP application was denied (Exhibit A, pp. 31-34).
10. On [REDACTED] 2019, Petitioner submitted a request for hearing disputing 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, Petitioner was an ongoing FAP recipient. On [REDACTED], 2019, Petitioner obtained employment at [REDACTED]. On [REDACTED] 2019, the Department received a State New Hire Match indicating Petitioner had obtained new employment.

The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. BAM 807 (October 2018), p. 1. State New Hires information is used to determine current income sources for active clients. BAM 807, p. 1. When the Department receives a New Hire Match, it will request verification from the client by sending a DHS-4635 New Hire Client Notice. BAM 807 (April 2017), p. 1. Per policy, it is a best practice to resolve information obtained from a State New Hires report within 21 calendar days from the date the match is reported to the specialist.

A QC audit was completed, and it was discovered that the Department did not act timely on the State New Hire Match. Once it was discovered that Petitioner had earned income that was not being budgeted, the income was added to Petitioner's FAP benefit case. The additional income resulted in the closure of Petitioner's FAP benefit case, due to excess income. Additionally, the Department determined Petitioner was overissued FAP benefits during the period of [REDACTED], 2019 through [REDACTED], 2019, as the earned income was not properly budgeted (see MOAHR case number 19-011383).

The Department presented the overissuance budgets to establish that Petitioner exceeded the net income limit for her group size, which resulted in the closure of her FAP benefit case (Exhibit A, pp. 44-54). A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017), p.1 As Petitioner's son receives [REDACTED] her group is designated as a categorically eligible SDV FAP group. Net income limitations are based on group size and are set forth in RFT 250. The Department also presented a Verification of Employment received from [REDACTED] that was utilized to create the overissuance budgets (Exhibit A, pp. 55-66).

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), pp. 1-2.

Petitioner's FAP benefit case was closed on [REDACTED] 2019. Per the budgets provided, Petitioner had [REDACTED] in earned income in [REDACTED] 2019, which was derived from the income verification received from the employer (Exhibit A, p. 51 and p. 64). Petitioner confirmed at the hearing that her son had unearned income in the amount of \$[REDACTED] per month. Petitioner's total household income was \$[REDACTED].

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is 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 554; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2017), p.1. The Department

correctly determined Petitioner is entitled to an earned income deduction of \$[REDACTED]. Petitioner's FAP benefit group size of three justifies a standard deduction of \$158. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

In calculating the excess shelter deduction of \$[REDACTED], the Department stated that it considered Petitioner's verified housing expense of \$[REDACTED]. BEM 554, pp. 14-15. When calculating Petitioner's excess shelter amount, the total shelter amount subtracted 50% of the adjusted gross income, results in a deficit. Therefore, the Department correctly determined Petitioner was not entitled to an excess shelter deduction.

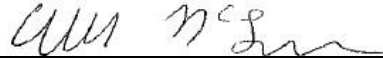
The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$[REDACTED]. As Petitioner was not entitled to an excess shelter deduction, her net income is also \$[REDACTED]. The net income limit for a group of three is \$[REDACTED]. RFT 250 (October 2018), p. 1. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case for exceeding the net income limits.

Petitioner reapplied for FAP benefits on [REDACTED], 2019. The Department denied Petitioner's FAP application for exceeding the net income limit. The factors in Petitioner's FAP budget were the same for [REDACTED] 2019 as [REDACTED] 2019, with the exception of Petitioner's earned income amount. Per the August 2019 budget and employment verification, Petitioner had \$[REDACTED] in gross earned income (Exhibit A, p. 53 and 65). When applying the deductions as stated above, Petitioner had an adjusted gross income of \$[REDACTED]. As Petitioner was not entitled to an excess shelter deduction, her net income was also \$[REDACTED]. Petitioner's August 2019 net income well exceeded the net income limit for her group size. Therefore, the Department acted in accordance with policy when it denied Petitioner's FAP application.

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 Petitioner's FAP benefit case and denied her FAP application. Accordingly, the Department's decisions are **AFFIRMED**.

EM/tm



Ellen McLemore

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

DHHS

LaClair Winbush
17455 Grand River
Detroit, MI
48227

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County