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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 12, 2020
MOAHR Docket No.: 20-001135
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 9, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2020, Petitioner applied for FAP benefits as the only member of his household. At the time of application, Petitioner was neither a senior, disabled, nor a disabled veteran. Petitioner's only reported income was from employment.
2. On an unspecified date, Petitioner submitted to MDHHS verification of the following ongoing biweekly gross employment income: \$1,161.33 on December 27, 2019; and \$995.38 on January 10, 2020.
3. On January 16, 2020, MDHHS denied Petitioner's application for FAP benefits due to excess gross income

4. On February 5, 2020, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of an application requesting FAP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated January 16, 2020, stated that MDHHS denied Petitioner FAP benefits beginning January 6, 2020, due to excess gross income. Exhibit A, pp. 10-11.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017) p. 1. An SDV group is one with a senior (a person over the age of 60 years), disabled, or disabled veteran. *Id.* A categorically eligible group is one whose members are all Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or Supplemental Security Income recipients (SSI).

On his application, Petitioner reported employment income. Based on his employment, it is presumed that he was not disabled or a disabled veteran. There was no evidence that Petitioner was over the age of 60. Given the evidence, Petitioner was neither a senior, disabled, or disabled veteran. As a non-SDV group member and the only member of his group, Petitioner's group was a non-SDV group

Petitioner's only reported income came from employment. As Petitioner's only income, it can be deduced that Petitioner did not receive FIP, SDA, or SSI benefits. Thus, Petitioner's group is not categorically eligible for FAP benefits. As a non-categorically eligible and non-SDV group, Petitioner must pass the gross income test in order to receive FAP benefits.

MDHHS converts biweekly non-child support income into a 30-day period by multiplying the average income by 2.1. BEM 505 (10/2010), p. 6. Petitioner submitted pay documents to MDHHS verifying the following gross biweekly gross income: \$1,161.33 on December 27, 2019, and \$995.38 on January 10, 2020. Exhibit A, pp. 8-9. Multiplying Petitioner's biweekly average gross income by 2.15 results in a countable monthly employment income of \$2,318; MDHHS calculated the same income for Petitioner.

Petitioner testified that his gross income was particularly high when he applied for FAP benefits. Petitioner's testimony implied an argument that one or both of his checks should have been discarded. Generally, MDHHS projects income based on income received in the income received in the 30 days before verification is requested or before the application date. Unrepresentative pays can be discarded if unusual and not expected to continue. Though Petitioner testified that his submitted pays were unrepresentative of his future earnings, he notably did not report this to MDHHS; at least there was no evidence of such a reporting. Based on Petitioner's reporting MDHHS would have no reason to suspect that his last 30 days of pays were unrepresentative of future earnings. Given the evidence, MDHHS properly budgeted \$2,318 in gross income for Petitioner.

The monthly gross income limit for a 1-person FAP group is \$1,354. RFT 250 (October 2018) p. 1. Petitioner's countable gross income of \$2,318 exceeds the gross income limits. Thus, MDHHS properly denied Petitioner's FAP eligibility due to excess gross income. As discussed during the hearing, Petitioner can reapply for Fap benefits at any time.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED] 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
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

Via Email:

MDHHS-Wayne-19-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

