



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: July 16, 2020  
MOAHR Docket No.: 20-003715  
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 July 9, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Latonya LaShore, Eligibility 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. Effective December 14, 2019, Petitioner began receiving state funded Unemployment Compensation Benefits (UCB) in the gross amount of \$[REDACTED] per week (Exhibit A, p. 8).
3. Effective April 18, 2020, Petitioner began receiving the federally funded Pandemic Unemployment Assistance (PUA) benefits in the gross amount of \$[REDACTED] per week (Exhibit A, p. 6).
4. Petitioner's household consisted solely of himself.

5. On April 25, 2020, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit case was closing effective June 1, 2020, as he exceeded the gross income limit for his group size (Exhibit A, pp. 12-16).
6. On [REDACTED], 2020, 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 April 25, 2020, the Department received notification that Petitioner began receiving PUA benefits. As a result, the Department redetermined Petitioner's FAP eligibility. The Department determined that Petitioner exceeded the gross income limit for his group size. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250.

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. For FAP benefit cases, UCB is countable as unearned income. BEM 503 (January 2020), p. 36. The Department counts the gross amount as unearned income. BEM 503, p. 37. The federal PUA benefit is only excluded as income for the Family Independence Program (FIP), Child Development and Care (CDC), State Emergency Relief (SER) and all types of Medical Assistance (MA) programs. The PUA is countable unearned income for FAP benefit cases. Policy Exception Memorandum issued by the Economic Stability Administration (ESA) in response to the COVID-19 crisis number 2020-24, issued April 17, 2020.

The Department testified that Petitioner had \$[REDACTED] per month in unearned income. The Department presented Petitioner's UCB Consolidated Inquiry (CI) report (Exhibit A, pp. 6-8). The CI report shows that Petitioner began receiving the state funded UCB benefit

amount on December 14, 2019, in the gross amount of \$[REDACTED] per week. Petitioner continued to receive the benefit through April 2020. The CI report also shows Petitioner began receiving PUA benefits on April 18, 2020, in the gross amount of \$[REDACTED] per week. As of April 18, 2020, Petitioner was receiving \$[REDACTED] per week in unemployment benefits. Petitioner's total gross unemployment benefit amount was \$[REDACTED]. Per policy, both the state funded UCB and the federally funded PUA are countable as unearned income. Therefore, the Department correctly determined Petitioner's gross income.

Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit (200% of the poverty level), from RFT 250, column D (October 2019), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a one-person FAP group, the applicable 200% gross income limit is \$2,082. As Petitioner's household gross income was \$[REDACTED] the gross income limit for FAP eligibility was exceeded. Thus, Petitioner is not entitled to FAP benefits and the Department properly closed his FAP benefit case.

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

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**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**

Chelsea McCune  
27690 Van Dyke  
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48093

**Petitioner**

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

cc: FAP: M. Holden; D. Sweeney  
Macomb County AP Specialist (4)