



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], MI [REDACTED]

Date Mailed: July 27, 2020  
MOAHR Docket No.: 20-004154  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 three-way telephone hearing was held on July 23, 2020, from Clawson, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Corliss Tripp-Watson, Assistance Payments Worker.

### **ISSUE**

Did the Department properly close the Petitioner's Food Assistance Program (FAP) benefits due to his income exceeding the FAP income limit?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP benefits and was a FAP group of one member, himself.
2. The Petitioner began receiving unemployment benefits and pandemic unemployment benefits due to his employment stopping on April 18, 2020.
3. Petitioner received the following unemployment benefits (UCB): \$452.00 April 18, 2020 and \$1,200.00 pandemic unemployment (PUI) and also received on May 2, 2020 \$452.00 (UCB) and \$1,200.00 (PUI) for a total unearned income amount of \$3,304.00 for the 30 day period.
4. The Department issued a Notice of Case Action on May 16, 2020 closing the Petitioner's FAP case effective July 1, 2020 due to his gross income exceeding the gross income limit for his group size of one person. Exhibit A, pp. 6-12.

5. Petitioner requested a timely hearing on May 26, 2020 protesting the closure of his FAP case.

### **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, the Department discovered due to a data match that Petitioner began receiving unemployment benefits biweekly in the amount of \$452.00 and pandemic unemployment benefits biweekly in the amount of \$1,200.00. Upon receipt of the information the Department recalculated the Petitioner's FAP budget and determined the Petitioner's income was over the FAP gross income limit for a group size of one person.

Department policy provides that a non-categorically eligible, non SDV (senior over 60 or disabled) FAP group must have income below the gross and net income limits. The Petitioner is a not disabled and is not categorically eligible and thus must have income below the gross and net income limits to be eligible. In calculating income the Department is directed to use **only** available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. The Department is required to always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. BEM 550 (January 2017) p. 1.

Petitioner's income source for determining his FAP eligibility is based solely on his unearned income from unemployment benefits and pandemic unemployment benefits.

At the hearing the Department presented a food assistance budget, FAP Net Edg income results which was reviewed at the hearing with the Petitioner. At the hearing the Department testified that Petitioner's case was closed due to receipt of unemployment benefits and pandemic unemployment benefits received by the Petitioner beginning

April 18, 2020. The Department testified that Petitioner received the following unearned income: \$452.00 April 18, 2020 and \$1,200.00 pandemic unemployment (PUI) and also received on May 2, 2020 \$452.00 (UCB) and \$1,200.00 (PUI) for a total unearned income amount of \$3,304.00 for the 30 day period. At the hearing the Petitioner did not dispute receiving unemployment compensation benefits as stated above and also did not dispute receiving pandemic unemployment benefits at \$600.00 weekly.

The monthly FAP gross income limit for FAP a group of one member is \$1,354 and the monthly net income is \$1,041.00. RFT250 (October 2019), p.1. As can be seen, the Petitioner's monthly income as calculated by the Department as \$3,551.00 well exceeds both the gross income limit and the net income limit as well. Department policy provides that the Department is to count the total gross amount of all unearned income. BEM 503 (July 2020), p. 38. The Department did not provide the verification for the unemployment benefits received but testified that the Petitioner received \$452.00 biweekly and \$1,200.00 biweekly and determined the total unearned income to be \$3,551.00. Adding the figures the Department testified from documents in the Bridges system the undersigned determined the monthly income to be \$3,304.00. The Petitioner did not dispute the receipt of unemployment benefits as testified to by the Department when asked. Therefore the fact that the Department used \$3,551 as gross income and \$3390.00 as net income and the undersigned based on the Department's testimony regarding gross income as \$3,304.00 does not change the outcome as both figures well exceed both the gross income limit (\$1,354.00) and the net income limit (\$1,041.00) for a FAP group of one member.

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 the Petitioner's FAP benefits due to his income exceeding the FAP income limit for both gross and net income.

### **DECISION AND ORDER**

Accordingly, the Department's decision is

**AFFIRMED.**

LMF/tlf



---

**Lynn M. Ferris**

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-Oakland-IV-Hearings  
BSC4 Hearing Decisions  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]