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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: September 16, 2020
MOAHR Docket No.: 20-004926
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 hearing was held via telephone conference on September 8, 2020. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Denise Payton, manager, and Michelle Pruitt, specialist

ISSUE

The issue is whether MDHHS properly terminated 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. As of June 2020, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through July 2020.
2. As of June 2020, Petitioner received gross employment income which exceeded \$2,000.
3. As of June 2020, Petitioner was the only member of her household. Also, Petitioner was neither a senior, disabled, or a disabled veteran.
4. On July 23, 2020, MDHHS terminated Petitioner's FAP eligibility beginning August 2020 due to excess gross income.
5. On July 24, 2020, Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS 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 a termination of FAP benefits.¹ Exhibit A, p. 3. A Notice of Case Action dated July 23, 2020, stated that Petitioner's FAP eligibility would end August 2020 due to excess gross income. Exhibit A, pp. 6-11.

To be eligible for FAP benefits, 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). It was not disputed that Petitioner's FAP group had no SDV members, FIP recipients, SSI recipients, or SDA recipients. Thus, Petitioner's FAP group is subject to gross income limits.

For FAP benefits, MDHHS counts gross unemployment income. BEM 501 (July 2017), p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017) p. 5. Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8.

As part of a redetermination of Petitioner's FAP benefits, MDHHS projected that Petitioner's gross monthly employment income was \$2,641. Exhibit A, p. 7. Petitioner's testimony acknowledged that her monthly gross income was at least \$2,000. For purposes of this decision, Petitioner's gross monthly employment income will be accepted to be \$2,000.

The monthly gross income limit for a 1-person FAP group is \$1,354. RFT 250 (October 2019) p. 1. Petitioner's countable gross income of at least \$2,000 exceeds the gross income limit.

In her hearing request and testimony, Petitioner stated that she is responsible for paying medical insurance, vehicle insurance, retirement savings, and income taxes.

¹ Petitioner testified that she also intended to dispute an attempted recoupment of allegedly overissued FAP benefits. MDHHS sent Petitioner written notice of recoupment on July 27, 2020. Exhibit A, p. 1. Petitioner could not have requested a hearing to dispute a recoupment action that had not occurred as of her hearing request date. Thus, the analysis will not address the attempted recoupment of FAP benefits. If Petitioner wishes to dispute recoupment, she may separately request a hearing.

Unfortunately for Petitioner, none of her expenses are relevant to determining whether her income exceeded gross income limits.²

The evidence established that Petitioner's FAP eligibility is conditional upon passing the gross income test. The evidence further established that Petitioner's gross income exceeded the gross income limit for her group size. Thus, MDHHS properly terminated Petitioner's FAP eligibility due to excess gross income.

² Additionally, such expenses are not relevant to determining a client's net income (See BEM 545)

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning August 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tlf



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-15-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

