



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: December 2, 2020
MOAHR Docket No.: 20-006202
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 on November 25, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], 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 August 2020, Petitioner was the only member of a group receiving FAP benefits.
2. As of August 2020, Petitioner was neither a senior, disabled, or a disabled veteran.
3. As of August 2020, Petitioner received ongoing monthly income of \$ [REDACTED] from performing adult home care.
4. As of August 2020, Petitioner received employment income from [REDACTED] (hereinafter, "Employer").

5. As of August 1, 2020, Petitioner received ongoing biweekly gross unemployment compensation benefits (UCB) of \$ [REDACTED]
6. On August 1, 2020, MDHHS terminated Petitioner's FAP eligibility beginning September 2020 due to excess gross income.
7. On [REDACTED] 2020, Petitioner verbally 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 verbally requested a hearing to dispute a termination of FAP benefits.¹ Exhibit A, pp. 3-5. A Notice of Case Action dated August 1, 2020, stated that Petitioner's FAP eligibility would end September 2020 due to excess gross income. Exhibit A, pp. 7-11.

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.

The notice of closure listed a calculated gross income of \$ [REDACTED] for Petitioner's group. MDHHS calculated the group's gross income from Petitioner's income from Employer, UCB, and adult home care.

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.

¹ Clients may verbally request hearing to dispute FAP eligibility. BAM 600 (January 2020) p. 2.

Concerning, UCB, Petitioner initially testified that he had not received benefits since June 1, 2020. MDHHS responded that a check of Petitioner's income revealed that Petitioner received ongoing biweekly gross UCB of \$[REDACTED] from before June 2020 through at least September 2020. After hearing MDHHS's testimony, Petitioner acknowledged that it was accurate. Multiplying Petitioner's biweekly payments of \$[REDACTED] results in countable monthly income of \$[REDACTED] (dropping cents).

Petitioner also received monthly gross income of \$[REDACTED] for performing adult home care services. Specialists are to enter income as wages for an individual who provides independent living services (also known as adult home help) as earned income. BEM 501 (January 2020) p. 7. Thus, \$[REDACTED] is countable as gross employment income for Petitioner.

The monthly gross income limit for a 1-person FAP group is \$1,354. RFT 250 (October 2019) p. 1. Petitioner's countable UCB and adult home care income totals \$[REDACTED] (dropping cents). Thus, Petitioner's income exceeded the gross income limit even before factoring employment income from Employer.

Petitioner testified that he has a history of calling MDHHS and being met with a full voicemail. Assuming Petitioner's testimony to be accurate, it would not impact whether his income exceeds the gross income limit.²

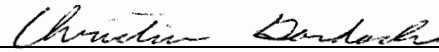
The evidence established that Petitioner's FAP eligibility is conditional upon passing the gross income test. The evidence further established that Petitioner's gross income exceeded the limit for his group size. Thus, MDHHS properly terminated Petitioner's FAP eligibility due to excess gross income.

² Petitioner also testified that the \$35 monthly FAP issuance he received from MDHHS was insufficient. Petitioner's testimony was curious because MDHHS has issued the maximum FAP issuances for a client's group since March 2020. MDHHS credibly responded that Petitioner indeed received monthly supplements of \$159 since March 2020 resulting in total monthly FAP issuances of \$194: the maximum issuance for a 1-person FAP group (see RFT 260).

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 September 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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-57-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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