



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: June 25, 2021
MOAHR Docket No.: 20-008977
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 8, 2021. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Gina Goss, Family Independence Manager (FIM), and Julie Parent Assistance Payments Worker (APW).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-26.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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, the Department received a Redetermination form completed by Petitioner. The household members are Petitioner and her two grandchildren [REDACTED] and [REDACTED]. The household income was reported as employment income for Petitioner, SSI benefits for [REDACTED], and court ordered child support for [REDACTED] (Exhibit A, pp. 5-10)
2. On November 2, 2020, a Redetermination interview was completed with Petitioner. (Exhibit A, p. 5)

3. A consolidated inquiry showed Petitioner receives spousal support of [REDACTED] monthly. (Exhibit A, pp. 17-21)
4. The Department determined that Petitioner's FAP case would close because the household income exceeded the program limit for the group size. (Exhibit A, p. 1)
5. On November 2, 2020, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective December 1, 2020 because net income exceeded the limit. (Exhibit A, pp. 11-16)
6. On November 12, 2020, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, p. 3)
7. A February 17, 2021 call to Iron County Friend of the Court confirmed that the payment Petitioner receives is court ordered spousal support. (Exhibit A, p. 21)

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.

BEM 212 addresses FAP group composition and caretakers. A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group. BEM 212, October 1, 2020, p. 2.

Spousal support is a payment from a spouse or former spouse because of a legally enforceable obligation for financial support. It includes maintenance and alimony payments. BEM 503, September 1, 2020. p. 32. The policy describes three types of spousal support:

Spousal Support Certified

Certified spousal support means court-ordered payments the Michigan State Disbursement Unit (MiSDU) sends to MDHHS due to an individual's

FIP activity. This occurs occasionally, when spousal support is part of a child support order.

Certified support is counted only in the FIP support income test.

Spousal Support Direct

Direct spousal support is a payment received by the spouse or ex-spouse because of a legally binding obligation.

Bridges counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider.

Spousal Support Voluntary

Voluntary spousal support is a payment received by the spouse or ex-spouse that is not court ordered. Bridges counts the total amount as unearned income.

BEM 503, p. 34.

The gross income limit for a FAP group size of three is \$2,353.00 and the net income limit is \$1,810.00. RFT 250, October 1, 2020, p. 1.

In this case, the parties dispute whether Petitioner's spousal support should be counted in the FAP budget.

On [REDACTED], 2020, the Department received a Redetermination form completed by Petitioner. The household members are Petitioner and her two grandchildren [REDACTED] and [REDACTED]. The household income was reported as employment income for Petitioner, SSI benefits for [REDACTED], and court ordered child support for [REDACTED] (Exhibit A, pp. 5-10) Petitioner testified that she is the guardian of her grandchildren. (Petitioner Testimony) Accordingly, the BEM 212 policy requires that Petitioner be included in the FAP group with her grandchildren.

Petitioner testified that she calls the monthly payment she receives alimony. (Petitioner Testimony) Under the BEM 503 policy, alimony is considered spousal support. The Department verified that the payment Petitioner receives is court ordered spousal support. (Exhibit A, pp. 17-21) Pursuant to the BEM 503 policy, the Department counts court ordered spousal support as unearned income.

Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for FAP. Based on the BEM 212 policy, Petitioner was properly included in the FAP group. The Department properly verified Petitioner's income and counted the court ordered spousal support she receives in the FAP budget when determining ongoing eligibility for the group. Petitioner's monthly earned income was [REDACTED], and the combined monthly SSI and spousal support unearned income was [REDACTED] (Exhibit

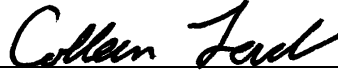
A, p. 13) Petitioner's FAP group's income exceeded the applicable income limits based on the available information.

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 determined Petitioner's eligibility for FAP.

DECISION AND ORDER

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

CL/ml



Colleen Lack
Administrative Law Judge

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

Chrissie Johnston
Iron County DHHS – via electronic mail

BSC1 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail

[REDACTED]
[REDACTED] MI [REDACTED]