



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: March 17, 2021  
MOAHR Docket No.: 21-000281  
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 March 10, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jeffrey Robinson, manager.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's application requesting Food Assistance Program (FAP) benefits due to excess gross income.

**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, Petitioner submitted to MDHHS an application requesting FAP benefits.
2. On an unspecified date, Petitioner verified the following biweekly gross employment income to MDHHS: \$1,365.38 on December 4, 2020, and \$1,334.66 on December 18, 2020.
3. As of December 2020, Petitioner was a member of a household with her minor child. Neither Petitioner nor her child were over the age of 60 years, disabled, or a disabled veteran.
4. On December 28, 2020, MDHHS denied Petitioner's FAP application due to excess income.

5. On [REDACTED], 2021, Petitioner requested a hearing to dispute the denial 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 denial of her application requesting FAP benefits. Exhibit A, pp. 4-5. MDHHS presented a copy of Petitioner's FAP application dated [REDACTED], 2020. Exhibit A, pp. 6-11. A Notice of Case Action dated December 28, 2020, stated that Petitioner was denied FAP benefits due to an excess gross income of \$2,902. Exhibit A, pp. 27-28.

A non-categorically eligible FAP group without a senior, disabled person, or disabled veteran (SDV) must have income below the gross and net income limits. BEM 550 (October 2020) p. 1. For non-SDV groups who are not categorically eligible to receive FAP benefits, MDHHS is to deny FAP benefits if gross income exceeds RFT 250, Column A (130% of the federal poverty level (FPL)). RFT 250, Column D (200% of the FPL) applies to enhanced domestic violence authorization which confers categorical eligibility if income is below the limit. RFT 250 (October 2020) p. 1.

Generally, FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS). Such groups are categorically eligible for FAP benefits if their gross income is at or below 200% of the federal poverty level and they meet the asset test. BEM 213 (October 2020) p. 1. Categorical eligibility is not conferred when a group member is disqualified due to an intentional program violation or the head of household is disqualified for an employment-related activity. *Id.*, p. 2.

It was not disputed that Petitioner was a member of a non-SDV two-person group. There was no evidence that any member of Petitioner's group was disqualified. Thus, Petitioner's group should be subject to the gross income limits of RFT 250, Column D (200% of the FPL) as a FAP applicant potentially eligible for enhanced authorization for DVPS. The gross income limit for a two-person FAP group with enhanced authorization for DVPS is \$2,874. RFT 250 (October 2020) p. 1.

MDHHS calculated Petitioner gross monthly income to be \$2,902. MDHHS factored pay documents dated December 4, 2020, and December 18, 2020 listing biweekly employment for Petitioner of \$1,365.38 and \$1,334.66, respectively. Exhibit A, pp. 15-

20. For FAP benefits, MDHHS generally counts gross wages.<sup>1</sup> BEM 501 (January 2020) p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017) p. 5. Biweekly income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. Multiplying Petitioner's average biweekly gross employment income by 2.15 results in a countable income of \$2,902.

Given the evidence, Petitioner's income of \$2,902 exceeds the gross income limit of \$2,874.<sup>2</sup> Thus, MDHHS properly denied Petitioner's application due to excess gross income.

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<sup>1</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

<sup>2</sup> MDHHS listed a gross income limit of \$1,868 on the denial notice. Exhibit A, p. 28. This income limit is based on RFT 250, Column A (130% of the federal poverty limit). Whether the 130% or 200% of the FPL limit applies is immaterial as Petitioner's gross income exceeds both limits.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application requesting FAP benefits dated [REDACTED] 2020, due to excess gross income. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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**Christian Gardocki**

Administrative Law Judge  
for Elizabeth Hertel, 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-3-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

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

[REDACTED]  
[REDACTED]  
[REDACTED]