



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: May 17, 2021
MOAHR Docket No.: 21-001988
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On April 5, 2021, Petitioner, [REDACTED], requested a hearing to dispute the termination of her Food Assistance Program (FAP) benefits. As a result, a hearing was scheduled to be held on May 12, 2021, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing with her authorized hearing representative, [REDACTED]. Respondent, Department of Health and Human Services (Department), had Robert Bush, Assistance Payments Supervisor, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 28-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly terminated Petitioner's FAP benefits, effective April 1, 2021?

FINDINGS OF FACT

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

1. Petitioner is disabled.
2. Petitioner lives with a roommate who buys and prepares his food separately.
3. On February 23, 2021, Petitioner submitted a redetermination to renew her eligibility for FAP benefits.
4. On March 25, 2021, the Department mailed a verification checklist to Petitioner with instructions to provide verification of medical expenses, unearned income,

pension, social security benefits, property/assets, housing expenses, and household members.

5. On [REDACTED] 2021, Petitioner responded to the verification checklist by providing verification as requested. Petitioner provided verification that she receives \$1,320.70 per month from social security. Petitioner provided verification that she received \$12,360.00 from a pension in 2020. Petitioner provided verification that she has a mortgage payment of \$794.26 per month. Petitioner provided verification that she is responsible for paying for heating/cooling utilities. Petitioner included a written statement with her verification that indicated she had a roommate who was not related to her and who helps with her utilities for heat and electricity.
6. On March 31, 2021, Petitioner's representative contacted the Department and asked how Petitioner should report money she receives from her roommate for utilities.
7. On March 31, 2021, the Department issued a notice of case action to Petitioner to notify her that her FAP benefits were going to be closed, effective April 1, 2021, because her income exceeds the program limit.
8. On April 5, 2021, the Department mailed another verification checklist to Petitioner. This verification checklist included instructions to provide verification of "RoomBoard income unknown."
9. On April 5, 2021, Petitioner requested a hearing to dispute the termination of her FAP benefits.

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) 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 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, Petitioner is disputing the Department's decision to terminate her FAP benefits, effective April 1, 2021. Petitioner asserted that the Department should not consider the money that she receives from her roommate because it is merely provided to help with housing expenses, it is not rent, it is not contractual, and it is not a fixed amount. Upon a review of the evidence presented, Petitioner is ineligible for FAP benefits even if the money she receives from her roommate is disregarded as

inconsequential. Petitioner is ineligible for FAP benefits because her net income exceeds the limit for FAP benefits.

FAP benefits are income based. 7 CFR 273.9(a). Households which contain an elderly or disabled member must meet the net income eligibility standard to be eligible for FAP benefits. *Id.* Household size determines the applicable income eligibility standards. Household size generally consists of the number of individuals who live together and prepare food together. 7 CFR 273.1.

Petitioner's household consists of only one person because the only other person that Petitioner lives with buys and prepares his food separately. Effective October 1, 2020, the net income limit for a group size of one is \$1,064.00 per month. RFT 250 (October 1, 2020). Petitioner's net household income is more than \$1,064.00 per month based on the information she provided to the Department. Petitioner receives gross income of \$2,351.00 per month, Petitioner is eligible for a standard deduction of \$167.00, Petitioner is eligible for a standard medical deduction of \$165.00, and Petitioner is eligible for an excess shelter deduction of \$323.00 (after giving Petitioner the maximum heat/utility standard when computing the excess shelter). Thus, Petitioner's net household income is \$1,696.00, without even considering any money she receives from her roommate.


Petitioner's net household income of \$1,696.00 exceeds the net income limit of \$1,064.00. Therefore, Petitioner is ineligible for FAP benefits, and the Department properly terminated her FAP benefits.

DECISION AND ORDER

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 its policies and the applicable law when it terminated Petitioner's Food Assistance Program benefits.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

JK/cc



Jeffrey Kemm
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

Via Email:

MDHHS-Antrim-Hearings
BSC1-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

