



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: June 11, 2021
MOAHR Docket No.: 21-002190
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 June 2, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tanisha Moore, specialist. [REDACTED] of [REDACTED] participated as an English-Arabic translator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility and denied his subsequent application due to excess 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. As of March 2021, Petitioner was an ongoing recipient of FAP benefits.
2. As of March 2021, Petitioner was a U.S. citizen with a household shared with his spouse and four children. No persons in Petitioner's household were over the age of 60, disabled, or disabled veterans. Also, no persons in the household received Family Independence Program (FIP), State Disability Assistance (SDA), or Supplemental Security Income (SSI) benefits.
3. In March 2021, Petitioner received the following gross weekly employment income: [REDACTED] and [REDACTED]
4. On March 8, 2021, MDHHS terminated Petitioner's FAP eligibility due to excess income.

5. On [REDACTED], 2021, Petitioner submitted to MDHHS an application requesting FAP benefits and reported a household including his spouse and four children. Petitioner also reported full-time employment income at [REDACTED] per hour. Exhibit A, pp. 6-13.
6. On April 23, 2021, Petitioner requested a hearing to dispute FAP eligibility.
7. On May 3, 2021, MDHHS denied Petitioner's application for FAP benefits due to excess gross income.

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 on April 23, 2021, to dispute FAP eligibility. Exhibit A, pp. 3-4. Petitioner's hearing request stated that he was "denied" FAP benefits due to excess income. A denial implies that he disputed a denied application. A Notice of Case Action dated May 3, 2021, stated that Petitioner was denied FAP benefits due to excess income. Exhibit A, pp. 23-25. Notably, Petitioner's application was not denied until after he requested a hearing. As of Petitioner's hearing request date, the most recent adverse action concerning FAP eligibility taken by MDHHS against was terminating Petitioner's FAP case beginning April 2021. MDHHS testified that Petitioner was sent a notice of termination on March 8, 2021 notifying him of FAP closure beginning April 2021 due to excess gross income. The analysis will consider whether MDHHS properly terminated Petitioner's case and denied his application due to excess gross income.

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).

Petitioner's application dated [REDACTED], 2021, reported that neither himself, his spouse, nor his four children were over the age of 60, disabled, or disabled veterans. Exhibit A, pp. 6-13. Additionally, no persons were reported to receive FIP, SDA, or SSI benefits. Under the circumstances, Petitioner was a member of a non-SDV FAP group; therefore, Petitioner's FAP benefit group is subject to gross income limits.

In denying Petitioner's application dated [REDACTED], 2021, MDHHS calculated a monthly income of [REDACTED] for Petitioner's group. MDHHS provided no justification for how the income was calculated. Nevertheless, documentary evidence of Petitioner's income could still justify benefit termination. The analysis will continue to determine if a properly calculated income would still result in benefit termination.

For FAP benefits, MDHHS counts gross employment 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 weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8.

Pay documents from Petitioner's employment verified the following gross weekly employment income in March 2021: [REDACTED] and [REDACTED].¹ Exhibit A, pp. 15-18. Multiplying Petitioner's average weekly income by 4.3 results in a countable gross income of [REDACTED] (dropping cents).

It was not disputed that Petitioner was a member of a benefit group that included his wife and four children. The monthly gross income limit for a 6-person FAP group is [REDACTED].² RFT 250 (October 2020) p. 1. Petitioner's countable gross income of at least [REDACTED] exceeds the gross income limit. Thus, Petitioner was ineligible to receive FAP benefits due to excess gross income and MDHHS properly terminated his case. Petitioner's excess income would also justify denial of his application dated [REDACTED], 2021.


¹ Presumably, MDHHS did not terminate Petitioner's FAP eligibility based on his income from March 2021. A termination notice was mailed on March 3, 2021 and all pays factored in the closure occurred after the termination notice was mailed. Nevertheless, Petitioner's income from March 2021 is a proper basis to determine Petitioner's FAP eligibility for April 2021.

² MDHHS determined a gross income limit of \$2,839. Exhibit A, p. 24. The gross income limit for a 4-person group is \$2,839. MDHHS's calculation appeared to be based on the disqualification of 2 members due to immigration status. Without consideration of whether MDHHS properly reduced the group size, a 6-person group is considered in the above analysis.

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 April 2021. MDHHS also properly denied Petitioner's application dated [REDACTED], 2021 requesting FAP benefits. The actions taken by MDHHS are **AFFIRMED**.

CG/jm



Christian Gardocki
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-Wayne-17-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

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