



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: June 18, 2021
MOAHR Docket No.: 21-002332
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 15, 2021, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Maia Elvine-Fair FIM. Victoria English also appeared and testified for the Department. Department Exhibit 1, pp. 1-23 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case 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. Petitioner was a recipient of FAP benefits.
2. On April 20, 2021, Notice of Case Action was sent to Petitioner informing him that his FAP case could close on May 31, 2021, because his gross income exceeded the limit. (Ex. 1, pp. 6-7)
3. On May 12, 2021, Petitioner requested hearing disputing the closure of his FAP case.
4. In March and April 2021, Petitioner received \$9,064 gift from his father. (Ex. 1, p.9)
5. Petitioner receives \$██████████ per month in employment income.

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.

A donation to an individual by family or friends is the individual's unearned income. Bridges counts the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503 (April 2020)

In this case, Petitioner did not dispute that he received bank account transfers from his father in March and April 2021 totaling \$9,064. Petitioner testified that some of the transfers covered expenses for his father and some of those transfers covered expenses for himself. Petitioner testified that he earns \$[REDACTED] per month in employment income, substantially more than the \$500 per month previously budgeted by the Department. The income limit for a FAP recipient with a household of 6 is \$3,809. Petitioner failed to verify that monies he received from his father were for his father's expenses that Petitioner had paid for previously. Therefore, the total amount of payments must be considered unearned income for Petitioner. BEM 503 Petitioner had \$[REDACTED] gross income which was well over the \$3,809 income limit, therefore the closure for excess income was proper and correct and consistent with Department policy. RFT 250

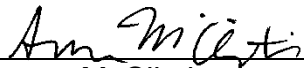
Petitioner was advised that he has the opportunity to reapply if his income is lower, he may be eligible.

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 closed Petitioner's FAP case for being over the income limit.

DECISION AND ORDER

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

AM/nr



Aaron McClintic
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

DHHS

Courtney Jenkins
22 Center Street
Ypsilanti, MI 48198

Washtenaw County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

██████████ - via first class mail
██████████
██████████, MI ██████████