



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: April 22, 2022
MOAHR Docket No.: 22-000870
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 April 14, 2022, from Lansing, Michigan. Petitioner [REDACTED] self-represented at the hearing. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator.

Department's Exhibits pages 1-39 were admitted as evidence on the record.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

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] [REDACTED] Petitioner sent a written request for Food Assistance (FAP) hearing because her benefits were closed.
2. A DHS 1010 Redetermination for Food Assistance was returned on 01/6/2022 and 01/21/2022 for a February Redetermination and Interview was completed.
3. The Petitioner sent Check Stubs and they were reviewed along with the Work Number and Social Security income.
4. On March 1, 2022, a DHHS 1605 Notice of case action was sent to Petitioner informing the client that as of 03-1-2022, ongoing FAP would be closed.

5. The reason for the closure of FAP benefits was due to Net Income exceeding limits BEM 550, 554, 556.
6. Petitioner has earned income of \$ [REDACTED] from Best Buy and Unearned income of RSDI \$ [REDACTED] the total countable monthly income gross is \$ [REDACTED] Medical deduction of \$187.00, Standard deduction of \$177.00 and Shelter of \$550.00 and client is getting the Full heat and utility Expense of \$559.00.
7. Per Department policy, RFT 250 the Monthly Gross income limit for a Single, Disabled, Adult (SDV) is \$1396.00.
8. On March 5, 2022, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, table 240-1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Court-ordered or voluntary child support payments are considered a part of gross income. BEM 500, pages 4-5

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income. BEM 503, page 31.

Traditional categorically eligible groups automatically meet the asset and income limits for the Food Assistance Program (FAP). Applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS). If their gross income is at or below 200 percent of the federal poverty level and they meet the asset test, they are also categorically eligible. Categorical eligibility applies to groups, not individuals. Bridges determines group composition prior to determining categorical eligibility. Determination of categorical eligibility will be made at application, reported change and redetermination.

Senior/Disabled/Disabled Veteran (SDV)

Households which contain an SDV member and whose gross income is above 200 percent are not categorically eligible, but they may still be eligible for benefits if their net income is below 100 percent of the poverty level and they meet the asset limit; see BEM 400 and BEM 550.

Because Petitioner receives RSDI income, he is categorically eligible to receive \$20 per month in Food Assistance Program benefits. However, Petitioner's income also includes earned income.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. Document income budgeting on either a manually calculated or an automated FAP worksheet. (BEM 550, page 1)

Bridges converts all expenses (except one-time-only expenses the group does not wish to average) to a nonfluctuating monthly amount. The same conversion method is used to determine countable available income in BEM 505.

Fluctuating income: Income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. BEM 505, page 2
Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate,

whenever possible. To prospect income, you will need to know:

- The type of income and the frequency it is received (such as, weekly).
- The day(s) of the week paid.
- The date(s) paid.
- The gross income amount received or expected to be received on each pay date.
BEM 505, page 4

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- **Multiply amounts received every two weeks by 2.15. (Emphasis added)**
- Add amounts received twice a month.

This conversion considers fluctuations due to the number of scheduled pays in a month.

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

In the instant case, Petitioner works and has earned income.

The Department counted \$ [REDACTED] earned income + \$ [REDACTED] in RSDI unearned income = \$ [REDACTED] total (income for the month).

Petitioner was then given the standard deduction of \$177, \$187 medical deduction and \$267 earned income deduction for an adjusted gross income of \$ [REDACTED]

Petitioner was given \$550 in household expenses + \$559 Heat and Utility standard = Total Shelter Amount of \$1109.

\$1109 total Shelter Amount – \$967 (50% Adjusted Gross Income) = \$142 Excess shelter Deduction.

Petitioner was given an excess shelter deduction of \$142.

\$[REDACTED] adjusted Gross income - \$142 excess shelter deduction = \$[REDACTED] in net income.

The maximum FAP benefit for a one-person household is \$250 per month.

\$250 maximum FAP benefit - \$[REDACTED] (30% of net monthly income) = \$0 in monthly FAP benefit eligibility.

The net income limit for a FAP group of one person is \$1074 in accordance with Department policy.

Petitioner is over the net income limit for FAP benefit eligibility.


A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by the Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the Department with information that Petitioner now receives less monthly earned income, the Department can reassess Petitioner's eligibility for Food Assistance Program benefits.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for a \$0.00 per month in Food Assistance Program benefits. The Department has established its case by a preponderance of the evidence.

DECISION AND ORDER

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

LL/ml



Landis Lain
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

MDHHS-Saginaw-Hearings
BSC2
M. Holden
D. Sweeney
MOAHR

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]