



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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Date Mailed: May 17, 2022
MOAHR Docket No.: 22-001604
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on May 10, 2022. Petitioner represented herself and **Jennifer Porter** testified on her behalf. The Department was represented by Sheila Crittenden.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 an ongoing Food Assistance Program (FAP) recipient when the Department received her Semi-Annual Contact Report indicating that her son was employed and expected to work 20 hours per week at a rate of \$██████ per hour. Exhibit A, p 42.
2. Petitioner's son received earned income in the gross weekly amount of \$██████ on January 5, 2022; \$██████ on January 12, 2022; \$██████ on January 19, 2022; and \$██████ on January 28, 2022. Exhibit A, pp 32-35.
3. Petitioner's spouse receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$██████ Exhibit A, p 27.
4. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$██████

5. Petitioner reported monthly medical expenses of \$752, monthly housing expenses of \$842, and that the household is responsible for heating expenses separate from housing expenses.
6. On January 22, 2022, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of February 1, 2022. Exhibit A, pp 11-13.
7. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, pp 3-7.

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 funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2020), pp 1-17.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (November 1, 2021), pp 7-8.

Petitioner was an ongoing recipient of FAP benefits as a household of three when the Department initiated a routine review of her eligibility to receive ongoing benefits. Petitioner and her spouse receive social security benefits in the gross monthly amount of \$[REDACTED] which was not disputed during the hearing.

Petitioner's son is employed, and it was reported on a Semi-Annual Contact Report that he expected to work 20 hours per week at a rate of \$[REDACTED] per hour. The reported earned income is the equivalent of a \$[REDACTED] prospective gross monthly income when multiplied by the 4.3 conversion factor. The actual earned income from January 5, 2022, through January 28, 2022, was \$[REDACTED] which is the equivalent of a \$[REDACTED] prospective gross monthly income. The Department used a \$[REDACTED] prospective gross monthly income in its FAP budget.

The gross monthly income limit for a household of three is \$[REDACTED] but this limit does not apply to Petitioner due to her age. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2021), p 1.

Using the expected earned income reported on the Semi-Annual Contact Report and the gross social security benefits, Petitioner received an adjusted gross monthly income of \$[REDACTED] which was determined by reducing the total of the earned income and social security income by the \$177 standard deduction, a \$752 medical expenses deduction, and the 20% earned income deduction.

Petitioner is entitled to a \$241 shelter deduction, which was determined by reducing the total of her housing expense and the \$559 standard heat and utility deduction by 50% of her adjusted gross income.

Petitioner's net monthly income of \$[REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. The net monthly income limit for a household of three people is \$1,830. RFT 250, p 1.


While it is not clear how the Department determined that Petitioner's son receives a \$[REDACTED] monthly income, the earned income reported on the Semi-Annual Contact Report combined with social security benefits received in the household cause the household's net income to exceed the limit to receive any FAP benefits and Petitioner has failed to establish that she is eligible for any FAP benefits. Further, the hearing record does not support a finding that Petitioner is eligible for any FAP benefits based on the household's countable income and expenses.

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 Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings and
Rules (MOAHR)

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

Sheila Crittenden
10641 W. Watergate Rd.
Cadillac, MI 49601

Wexford County DHHS- via electronic mail

BSC1- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

██████████ - via first class mail

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