



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: May 19, 2022
MOAHR Docket No.: 22-001732
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 May 18, 2022, from Lansing, Michigan. The Petitioner [REDACTED] self-represented at the hearing. The Department of Health and Human Services (Department) was represented by Lianne Stupholm (Hearings Facilitator) and Sara Sanger (Eligibility Specialist).

Department's Exhibit A pages 1-25 was admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's 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] 2022, [REDACTED] filed an 1171 Assistance Application for State Emergency Relief (Exhibit A pp. 3-7).
2. On 03/24/2022, a 3503 Verification Checklist was mailed to [REDACTED] with a due date of [REDACTED] 2022 (Exhibit A pp. 8-10).
3. Petitioner returned partial documentation but did not provide documentation indicating that had Worker's Compensation might have ended.

4. On 04/05/2022, a DHS 1605 Notice of Case Action was mailed to [REDACTED] for the denial of his food assistance for failure to provide required documentation and for exceeding the gross income limit (Exhibit A pp. 11-15).
5. The Department determined the Employment Group income (Exhibit A pp. 16-21).
6. The Department generated a FAP gross income budget (Exhibit A pg. 22).
7. On [REDACTED] 2021, Petitioner filed a Request for Hearing to contest the negative action.
8. On [REDACTED] 2022, Petitioner was offered a case conference which was rejected.
9. On April 25, 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 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.

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. BEM 500, pages 4-5

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)

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.

In this case, the Department counted earned income received as submitted by the Petitioner in this case. RFT 250 indicates that the monthly gross income limit for one person is \$1396. The Department counted Petitioner's monthly income from the application submitted by Petitioner which indicated that he earned [REDACTED] per hour and worked 40 hours per week. [REDACTED] x 40 x 4.3 = [REDACTED] in gross monthly income for the month, which is in excess of the income limit as set by Department policy. Though the budget contained in the file appears inaccurate based upon the evidence, Petitioner still provided information sufficient to determine that his employment income was more than the monthly gross income limit for his household. Thus, the error is harmless.

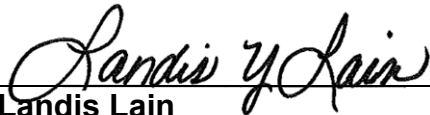
If Petitioner provides the Department with information that Petitioner now receives less monthly earned income with a new application, the Department can reassess Petitioner's eligibility for Food Assistance Program benefits.

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 acted in accordance with Department policy when it denied Petitioner's application for FAP based upon excess income.

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

Electronic Mail Recipients:

MDHHS-Calhoun-Hearings
BSC3
M. Holden
D. Sweeney
MOAHR

First Class Mail Recipient:

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