



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 14, 2022  
MOAHR Docket No.: 22-002124  
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 8, 2022, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Amber Gibson Hearing Facilitator. Department Exhibit 1, pp. 1-26 was received and admitted.

**ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) benefit 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. On ██████ 2022, Petitioner applied for FAP for a group size of 3.
2. On April 7, 2022, Notice of Case Action was sent to Petitioner informing her that her FAP application was denied due to excess income.
3. On May 2, 2022, Petitioner requested hearing disputing the denial of FAP benefits.
4. Petitioner was receiving \$████████ in employment income at the time of application based on a pro-rated average of the previous 30 days.
5. Petitioner was receiving \$████████ in child support at the time of application based on a 90-day average excluding any lump sum payments towards arrearages.

6. Petitioner was receiving SSI on the behalf of a child in the amount of \$ [REDACTED] at the time of application.

### **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.

#### **Department policy**

This item applies **only** to the Food Assistance Program (FAP).

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

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.

**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. Gross countable earned income is reduced by a 20 percent earned income deduction. 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

#### **Child Support Income**

##### ***Past Three Months***

Use the average of child support payments received in the **past three calendar months** unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue. BEM 505

#### **Non-Child Support Income**

##### ***Using Past Income***

Use past income to prospect income for the future unless changes are expected:

Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505


In this case, Petitioner had \$ [REDACTED] in employment income in the previous 30 days pro-rated average. Petitioner received 3 paychecks in the previous 30 days prior to application but not all 3 checks were budgeted. An average of the 3 checks were used then multiplied by 2.15. Petitioner received \$ [REDACTED] in child support in the month prior to application based on a 3-month average not including lump sum payments made towards arrearage. Petitioner received \$ [REDACTED] in children's SSI in the month before application. Petitioner received \$ [REDACTED] in gross income. After subtracting the earned income deduction and the standard deduction, Petitioner had \$ [REDACTED] in net income. The net income limit for a group size of 3 was \$1,830. Therefore, the denial due to excess income was proper and correct and consistent with Department policy. BEM 505, 550, 554

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 FAP application due to excess income.

**DECISION AND ORDER**

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

AM/nr

  
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Aaron McClintic  
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-Electronic Mail :**

**DHHS**  
Amber Gibson  
Ingham County DHHS  
5303 South Cedar  
PO Box 30088  
Lansing, MI 48911

BSC2  
M. Holden  
D. Sweeney

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]