



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: August 18, 2022
MOAHR Docket No.: 22-003099
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 August 15, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Tanner Robinson, Eligibility Specialist.

ISSUE

Did MDHHS 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 an ongoing recipient of FAP.
2. Petitioner's household is a group size of one and she is a Senior, Disabled, or Disabled Veteran (S/D/V) individual.
3. Petitioner receives \$ [REDACTED] per month in unearned income from Retirement, Survivors, and Disability Insurance (RSDI).
4. When completing the Semi-Annual Contact Report for the certification period in July 2022, Petitioner reported that her employment had changed and she now works for [REDACTED], Inc. (Employer).
5. On July 18, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that her FAP case was closed due to excess net income (Exhibit A, pp. 10-14).

6. On [REDACTED], 2022, MDHHS received a timely submitted hearing request from Petitioner regarding the closure of her FAP case (Exhibit A, pp. 3-5).

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 [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing regarding the closure of her FAP case due to excess net income. FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility. During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. 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. MDHHS counts the gross benefit amount of RSDI as unearned income. BEM 503 (April 2022), p. 29. In this case, MDHHS calculated Petitioner's unearned income amount from RSDI to be \$[REDACTED] monthly (see Exhibit A, pp.6-8). Petitioner confirmed this amount is what she receives each month.

S/D/V FAP groups must have income below the net income limits. BEM 550 (January 2022), p. 1. Petitioner is a S/D/V group size of one, subject to the net income limit of \$1,074.00. RFT 250 (October 2021), p. 1., Col. B. Since Petitioner's unearned income exceeds the net income limit for her group size, Petitioner is not eligible for FAP. Therefore, MDHHS acted in accordance with policy in closing Petitioner's FAP case due to excess net income.

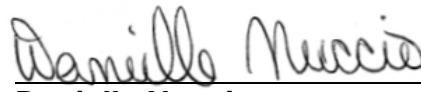
Petitioner disputed the calculation of her income from employment. MDHHS counts gross wages in the calculation of earned income. BEM 501 (July 2022), pp. 6-7. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (November 2021), pp. 1-2. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. In this case, MDHHS was unable to explain how they calculated Petitioner's earned income amount. Petitioner testified that she works 21 hours per week, is paid \$[REDACTED] per hour, and is paid biweekly. Pursuant to BEM 505, Petitioner's prospective income would be \$[REDACTED] monthly. However, since Petitioner had excess net income for eligibility based upon unearned income from RSDI alone, any additional income from employment would cause Petitioner to be even further from qualifying for FAP.

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 MDHHS acted in accordance with Department policy when it closed Petitioner's FAP case due to excess net income.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

DN/mp



Danielle Nuccio

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
MDHHS-Wayne-17-hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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