



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: October 11, 2022
MOAHR Docket No.: 22-003209
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 videoconference hearing was held on October 3, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Haysem Hosney, Hearing Facilitator.

ISSUE

Did the Department properly process and 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 or around ██████████, 2022, Petitioner submitted an application requesting FAP benefits. (Exhibit A, pp. 5-15)
2. On or around June 27, 2022, the Department conducted an application interview with Petitioner, during which she provided information regarding her income and expenses.
3. Petitioner confirmed that her household size is one, and that she receives monthly income from Retirement, Survivors, and Disability Insurance (RSDI) or Social Security and a retirement pension.
4. The Department determined that Petitioner had excess net income and was ineligible for FAP benefits. The Department's Bridges system failed to generate an

eligibility notice or notice of case action, advising Petitioner of the denial of her application or the reason for intended action.

5. On or around July 27, 2022, Petitioner requested a hearing disputing the Department actions with respect to her FAP application. (Exhibit A, p.4)
6. The Department asserted that on or around August 5, 2022, a manual DHS – 176 Benefit Notice was issued to Petitioner advising her of its decision to deny her FAP application. However, the Benefit Notice was unable to be located during the hearing.

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.

In this case, Petitioner disputed the denial of her [REDACTED] 2022, FAP application. At the hearing, the Department representative testified that it determined that Petitioner's household had income in excess of the \$[REDACTED] net income limit based on her one-person household group size. In order to be eligible for FAP benefits, FAP groups must have income below the applicable gross and/or net income limits based on their group size. Petitioner is subject to the net income test. BEM 213 (October 2021); BEM 212 (January 2022); BEM 550 (January 2022); RFT 250 (October 2021). The Department properly applied a net income limit for a one-person group size of \$[REDACTED] RFT 250, p. 1.

The Department presented a FAP Eligibility Determination Group (EDG) Net Income Results Budget which was thoroughly reviewed to determine if the Department properly concluded that Petitioner's household had excess income. (Exhibit A, pp. 20-23). All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1 – 5. The Department considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security and retirement pensions in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2021), pp. 29-37. The budget shows that the Department concluded Petitioner had gross unearned

income in the amount of \$[REDACTED]. The Department representative testified that it considered \$[REDACTED] in gross monthly RSDI benefits and \$[REDACTED] in gross monthly retirement pension income. Petitioner confirmed that the gross amount of her RSDI is \$[REDACTED] although she indicated that Medicare premiums are withheld. With respect to her retirement pension, Petitioner testified that the gross amount is \$[REDACTED] not, the \$[REDACTED] budgeted by the Department. However, Petitioner noted that \$[REDACTED] are withheld from her pension towards dental and vision insurance. She also indicated that she is responsible for \$[REDACTED] in state and federal taxes that are withheld from her pension check. Petitioner was given the benefit of the Department's \$[REDACTED] miscalculation of her monthly pension. Upon review, because the Department is to consider gross monthly amounts, the Department properly calculated Petitioner's unearned income of \$[REDACTED].

The deductions to income were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2022), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
 - Excess shelter.
 - Court ordered child support and arrearages paid to non-household members.
 - Medical expenses for the SDV member(s) that exceed \$35.
 - Standard deduction based on group size.
 - An earned income deduction equal to 20% of any earned income.
- BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 1-8.

In this case, Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses; therefore, the budget properly did not include any deduction for dependent care or child support. The Department properly applied a standard deduction of \$177 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2021), p. 1. The Department determined that Petitioner was eligible for a medical deduction of \$[REDACTED]. The Department testified that it considered medical expenses, specifically Petitioner's Medicare part B premium of \$[REDACTED], Medicare part D premium of \$[REDACTED] as well as additional health/hospitalization insurance premiums of \$[REDACTED]. Petitioner confirmed that she was responsible for premiums in the amounts relied upon by the Department. Petitioner asserted that she is also responsible for \$[REDACTED] in monthly dental and vision insurance premiums, as well as out-of-pocket costs for prescription medications and glasses, among other expenses which to date this year, total around \$[REDACTED]. It was unclear whether these additional expenses were submitted to the Department at the time the application was processed and when they were actually incurred. Upon review, based on the information available to the Department at the time that the application was processed, the Department properly calculated the medical deduction of \$[REDACTED]. The Department's failure to consider the \$[REDACTED] in monthly dental and vision insurance premiums is noted to be harmless error, as a \$[REDACTED] increase in the medical deduction would not change the excess income determination.

With respect to the excess shelter deduction reflected on the budget of \$ [REDACTED] the Department testified that it considered Petitioner's housing expenses of \$ [REDACTED] which Petitioner confirmed includes her monthly mortgage payment, home insurance, and property taxes. The Department also properly considered the \$ [REDACTED] heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. Thus, the Department properly calculated the excess shelter deduction.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income, including the standard deduction of \$ [REDACTED] the \$ [REDACTED] medical deduction, and the excess shelter deduction of \$ [REDACTED]. Because Petitioner's net income of \$ [REDACTED] is greater than the \$ [REDACTED] net income limit based on her one-person household group size, the Department properly denied Petitioner's [REDACTED] 2022, FAP application, as her household's net income exceeded the income limit.

At the hearing, Petitioner raised concerns with respect to the Department's failure to properly notify her that her application was denied.

When the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action based on the type of program. The notice of case action is printed and mailed centrally from the consolidated print center and specifies the actions being taken, the reason for the action, the specific manual item which cites the legal bases for an action or the regulation or law itself, an explanation of the right to request the hearing, and the condition under which benefits are continued if a hearing is requested. A negative action is a department action to deny an application or to reduce, suspend or terminate a benefit. After processing an initial application, the Department will notify clients of the approval or denial. See BAM 110 (April 2022); BAM 115 (April 2022); BAM 220 (April 2022).

Petitioner's hearing request indicates that although she was verbally informed that her application was denied due to excess income, she should have received notice of the denial and a budget for her to review in writing. At the hearing, the Department representative testified that for an unknown reason, Bridges failed to automatically generate a notice of case action at the time Petitioner's FAP application was denied. The Department representative testified that upon receiving Petitioner's request for hearing, the caseworker manually generated a DHS 176 Benefit Notice and sent it to Petitioner advising her of the denial of the FAP application due to excess income. Petitioner denied receiving the Benefit Notice and the Department representative was unable to locate the notice during the hearing. It is noted that although Petitioner did not receive a notice of case action advising her of the Department's eligibility decision, Petitioner's hearing rights were preserved, and in response to her request for hearing, the Department provided Petitioner with the hearing packet which included the FAP

EDG Net Income Results Budget as well as other evidence in support of its eligibility decision. (Exhibit A).

Although a lack of notice will not change the Department's eligibility determination and the proper finding that Petitioner had excess net income resulting in Petitioner's ineligibility for FAP benefits, the Department will be ordered to issue an eligibility notice to Petitioner advising her of the denial of the [REDACTED] 2022, FAP application.

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 determined that Petitioner had excess income and was ineligible for FAP benefits but did not act in accordance with Department policy when it failed to issue a notice of case action or eligibility notice to Petitioner notifying her that the [REDACTED] 2022, FAP application was denied.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP denial due to excess income and **REVERSED IN PART** with respect to the Department's failure to issue a notice of case action.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Issue a notice of case action or other eligibility notice to Petitioner advising of the denial of her [REDACTED] 2022, FAP application due to excess income.

ZB/ml



Zainab A. Baydoun
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
Raina Moore
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Interested Parties

BSC4
M. Holden
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MOAHR

Via First Class Mail :

Petitioner

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