

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. MDHHS 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, MDHHS denied Petitioner's [REDACTED], 2022 FAP application due to excess income. At the hearing, MDHHS testified that Petitioner's household income exceeded the gross income limit for FAP. To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. 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), p. 1. MDHHS is required to prospect income using the best estimate of income expected to be received during the month and should seek input from the client to establish the estimate, whenever possible. BEM 505, p. 3.

Regarding earned income, Petitioner reported on the FAP application that she was working at Employer 32 hours per week, earning \$[REDACTED] per hour (Exhibit A, p. 11). Based on Petitioner's paystubs, MDHHS budgeted more earned income than initially reported because the paystubs showed that Respondent was earning \$[REDACTED] per hour, plus an additional \$[REDACTED] for hazard pay, which brought the total hourly rate to \$[REDACTED] (Exhibit A, pp. 17-18). The biweekly paystub dated July 1, 2022 showed that Respondent worked 40 hours and earned \$[REDACTED] in gross pay (Exhibit A, p. 16). The biweekly paystub dated July 15, 2022 showed that Respondent worked 71.5 hours and earned \$[REDACTED] in gross pay.

MDHHS did not introduce a copy of the FAP budget calculation at the hearing. Regarding earned income, MDHHS is required to prospect or estimate the income expected to be received by the Petitioner in a given month. See BEM 505. Petitioner submitted paystubs showing fluctuating income. MDHHS must convert fluctuating income that is received more than monthly to a standard amount. BEM 505, p. 8. For income that is received biweekly, MDHHS multiplies the average amount by 2.15. Based on Petitioner's paystubs, Petitioner earned an average biweekly paycheck of \$[REDACTED]. Multiplying \$[REDACTED] by 2.15 equals a standard monthly amount of \$[REDACTED] in earned income.

Petitioner disputed the amount of earned income budgeted by MDHHS, testifying that her hours decreased after she submitted the FAP application and that she sent MDHHS an additional paystub, which showed the decrease. However, the paystub was not available prior to MDHHS' determination that Petitioner was over-income and there was no evidence that Petitioner reported the decrease in hours prior to the FAP denial. Therefore, the record shows that MDHHS properly based its determination of Petitioner's earned income on the paystubs she submitted, dated July 1 and July 15, 2022, because it was the best information available at the time.

MDHHS testified that its determination that Petitioner was over-income for FAP was also based on Petitioner's receipt of child support income. Regarding child support income, MDHHS uses the average of child support payments received in the past three calendar months, unless changes are expected, and does not budget amounts that are unusual and are not expected to continue. BEM 505, p. 4. MDHHS presented evidence that Petitioner received monthly child support for two of her minor children, which averaged \$[REDACTED] each for a total of \$[REDACTED] per month (Exhibit A, pp. 14-15). Petitioner did not dispute the amounts that she received in child support payments.

Adding together the earned and unearned income for the household equals \$[REDACTED] in countable monthly income (dropping the cents). Petitioner reported that she had a FAP group of five and no evidence was presented that Petitioner's household included a senior/disabled/disabled veteran (SDV) individual. (Exhibit A, pp. 7-8). If a group's gross income is at or below 200% of the federal poverty level (FPL) and the group meets the asset test, then the group is considered Domestic Violence Prevention Services (DVPS) categorically eligible. BEM 213 (October 2021), p. 1. The DVPS categorical eligibility income limit (200% FPL) for a group size of five is \$[REDACTED], effective October 1, 2021. RFT 250, p. 1. Petitioner's FAP group was DVPS categorically eligible as long as it also satisfied the asset test, because the household's countable monthly income was below \$[REDACTED].

MDHHS testified that it determined that Petitioner's household was over the gross income limit for FAP. However, because Petitioner's group is DVPS categorically eligible, the gross income limit in Column D applies, rather than Column A of RFT 250. See BEM 213. Because Petitioner's FAP group was DVPS categorically eligible, MDHHS is required to calculate Petitioner's net income and compare it to the FAP issuance tables contained in RFT 260. No evidence was presented that MDHHS calculated Petitioner's net income 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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

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

MDHHS 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. Reprocess Petitioner's [REDACTED] 2022 FAP application;
2. Redetermine Petitioner's eligibility for FAP benefits, beginning July 20, 2022 ongoing;
3. If Petitioner is eligible for supplements, issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not from July 20, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties

M. Holden
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Via-First Class Mail :

Petitioner

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