



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: September 7, 2022  
MOAHR Docket No.: 22-003381  
Agency No.: ██████████  
Petitioner: ██████████

**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 September 1, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Howard Camp, Eligibility Specialist.

**ISSUE**

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case for July 2022 due to excess net 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 for a group size of three.
  - a. Petitioner's household contains no senior (over 60 years old), disabled, or disabled veteran (S/D/V) group members.
  - b. Petitioner worked for ██████████ (Employer), working 40 hours per week, earning ██████████ per hour, paid bi-weekly.
  - c. Petitioner receives ██████████ per week, inconsistently, in child support.
  - d. Petitioner pays \$950.00 per month in housing expenses and is responsible for paying for her own utilities.

2. On [REDACTED] 2022, Petitioner applied for State Emergency Relief (SER). Petitioner reported earned income from Employer. MDHHS subsequently updated Petitioner's FAP case to reflect this income.
3. On June 30, 2022, Petitioner timely submitted a redetermination of FAP benefits to MDHHS. MDHHS processed this redetermination on August 11, 2022.
4. Effective July 1, 2022, Petitioner's FAP case was closed due to excess net income.
5. On July 19, 2022, Petitioner's employment ended.
6. On August 5, 2022, MDHHS received a timely submitted hearing request from Petitioner regarding the denial of her SER application and closure of her FAP case for July 2022 (Exhibit A, pp. 3-75).

### **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 requested a hearing regarding the closure of her FAP case for the month of July due to excess net income. Following Petitioner's employment ending, she was approved for FAP benefits, effective August 1, 2022 ongoing. In her request for a hearing, Petitioner also requested a review regarding the denial of her SER application. After the hearing commenced, Petitioner stated that her SER application has now been approved and she moved to withdraw her hearing request. Therefore, the SER hearing request will be dismissed.

On June 24, 2022, Petitioner applied for SER, providing MDHHS with earned income information from employment. MDHHS then used this income information to review Petitioner's FAP eligibility. MDHHS is required to evaluate each change reported and determine if it affects eligibility. BAM 220 (April 2022), p. 1. When MDHHS updated Petitioner's FAP household budget, they determined that she was over the net income limit for eligibility. During the hearing, all relevant budget factors were discussed with Petitioner. All FAP groups which do not contain a Senior, Disabled, or Disabled Veteran (S/D/V) group member must have income below the Gross Income Limit and the Net Income Limit. BEM 550 (January 2022), p. 1. Petitioner confirmed that her household is

a group size of three and does not contain a S/D/V member. At the time of Petitioner's SER application, the Gross Income Limit for a group size of three was [REDACTED] and the Net Income Limit was \$1,830.00. RFT 250 (October 2021), p. 1; BEM 213 (October 2021), p. 1.

MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. 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 (November 2021) pp. 5-6. A standard monthly amount must be determined for each income source used in the budget, which is determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505 pp. 8-9. In this case, MDHHS testified that they relied upon Petitioner's report of earned income from Employer of 40 hours per week, earning [REDACTED] per hour, paid bi-weekly. Petitioner confirmed that this income information was accurate. This calculates to [REDACTED]. Since this amount is over the net income limit of [REDACTED], MDHHS acted in accordance with policy in determining Petitioner was not eligible to receive FAP benefits in July 2022 due to excess net income.

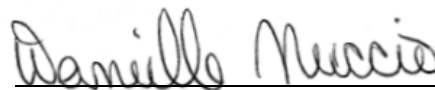
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS acted in accordance with Department policy when it closed Petitioner's FAP case for July 2022 due to excess net income.

### **DECISION AND ORDER**

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

Petitioner's hearing request for SER is **DISMISSED**.

DN/mp



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**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-57-Hearings  
E. Holzhausen  
D. Sweeney  
M. Holden  
MOAHR  
T. Bair  
BSC4

**Via-First Class Mail :**

**Petitioner**

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