



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: October 11, 2022
MOAHR Docket No.: 22-003968
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 October 6, 2022, from Lansing, Michigan. Petitioner ██████████ self-represented at the hearing. The Department of Health and Human Services (Department) was represented by Tian Woody, Eligibility Specialist and Cheryl Watkins, Assistance Payments Supervisor.

Department's Exhibits pages 1-32 were admitted as evidence on the record.

ISSUE

Did the Department properly 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 ██████████ 2022, Petitioner submitted a food assistance application for a household of three persons.
2. Petitioner reported on the application that her spouse works at ██████████ where he is paid biweekly.
3. The Department verified the spouse's income with the work number.
4. Based on Petitioner's family income FAP was denied due to the household being over the income limit.

5. Medical Assistance (MA-HMP) was also closed for Petitioner and her spouse due to being over the income limit.
6. Medical Assistance (MA-G2C) was approved for both with a spend down amount of \$ [REDACTED] Medical Assistance (MA-OHK) remains approved for the daughter.
7. On July 12, 2022, a health care coverage determination letter was sent to Petitioner.
8. On August 2, 2022, the Department sent Petitioner Notice of Case Action explaining that her application for FAP was denied based on excess income.
9. On [REDACTED] 2022, the Department received a Request for Hearing.
10. On September 15, 2022, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.
11. The Department conceded on the record that it erred in closing Petitioner's Medical Assistance – HMP case and reinstated Petitioner's Medical Assistance to July 1, 2022-forward.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, table 240-1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. Court-ordered or voluntary child support payments are considered a part of gross income. BEM 500, pages 4-5

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. 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, page 1)

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.

In the instant case, Petitioner works and has earned income.

The Department counted \$ [REDACTED] earned income total (income for the month).

Petitioner was then given the standard deduction of \$ [REDACTED] and earned income deduction of \$ [REDACTED]

[REDACTED] Adjusted Gross Monthly Income.

Petitioner was given \$ [REDACTED] in household expenses + [REDACTED]559 Heat and Utility standard = Total Shelter Amount of \$ [REDACTED]

\$ [REDACTED] total Shelter Amount – \$ [REDACTED] (50% Adjusted Gross Income) = [REDACTED]206 Excess shelter Deduction.

Petitioner was given an excess shelter deduction of \$ [REDACTED]

\$█ adjusted Gross income - \$█ excess shelter deduction = \$█ in net income.

The maximum FAP benefit for a three-person household is \$█ per month.

\$█ maximum FAP benefit - \$█ (30% of net monthly income) = \$█ in monthly FAP benefit eligibility.

The net income limit for a FAP group of one person is \$█ in accordance with Department policy.

Petitioner is over the net income limit for FAP benefit eligibility.


A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by the Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the Department with information that Petitioner now receives less monthly earned income, the Department can reassess Petitioner's eligibility for Food Assistance Program benefits.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for a \$█ per month in Food Assistance Program benefits. The Department has established its case by a preponderance of the evidence.

DECISION AND ORDER

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

LL/ml


Landis Lain
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 Administrative Hearings and Rules.

