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

ORLENE HAWKS DIRECTOR



Date Mailed:	November 29, 2022
MOAHR Docket No.: 22-004497	
Agency No.:	
Petitioner:	

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 November 3, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Linda Cortes, Assistance Payments Supervisor and Lavita Brookins, Program Manager.

ISSUE

Did the Department properly determine the Petitioner's Food Assistance Program (FAP) eligibility?

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, the Petitioner applied for FAP benefits and reported selfemployment income and expenses with a 1 Individual Income Tax Return. Department Exhibit 1-2.
- 2. On September 14, 2022, the Department Caseworker conducted the required interview guide to determine FAP eligibility for the Petitioner where it was explained that the Petitioner had to submit a Self-Employment Income and Expense Statement, DHS 431, with receipts to verify actual expenses for FAP eligibility, but the Department would use the 25% in expenses allowed because the Petitioner did not want to submit a DHS 431 with receipts of her expenses. Department Exhibit 4.

- 3. On September 22, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that the Petitioner was approved for FAP benefits for a household group of 2 for August 29, 2022, through August 31, 2022, for \$500, 2022, for \$500
- 4. On **Example 1** 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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, the Petitioner applied for FAP benefits and reported self-employment income and expenses with a line Individual Income Tax Return on August 29, 2022. Department Exhibit 1-2. On September 14, 2022, the Department Caseworker conducted the required interview guide to determine FAP eligibility for the Petitioner where it was explained that the Petitioner had to submit a Self-Employment Income and Expense Statement, DHS 431, with receipts to verify actual expenses for FAP eligibility, but the Department would use the 25% in expenses allowed because the Petitioner did not want to submit a DHS 431 with receipts of her expenses. Department Exhibit 4. On September 22, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that the Petitioner was approved for FAP benefits for a household group of 2 for August 29, 2022, through August 31, 2022, for september 1, 2022, through September 30, 2022, for and from October 1, 2022, through July 31, 2023, for \$ per month. Department Exhibit 5. On ..., 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BEM 502.

During the hearing, the Department stated that the Petitioner's FAP benefits ended on July 31, 2022, because the Petitioner did not complete the required interview. The Petitioner admitted that she did not call to reschedule her telephone interview, but rather reapplied on **100000**, 2022. Since there was no telephone interview by July 31, 2022, the Petitioner's FAP benefits ended. The Petitioner reapplied for FAP benefits on **100000**, 2022.

BEM 502

Self-Employment Income

- Primary source Income tax return provided:
 - •• The client hasn't started or ended selfemployment, or received an increase/decrease in income, etc.
 - •• The tax return is still representative of future income.
 - •• The client filed a tax return.
- Secondary source DHS-431, Self-Employment Statement, with all income receipts to support claimed income.
- Third source DHS-431, Self-Employment Statement, without receipts.

Self-Employment Expenses

All Programs except Medicaid

DHS-431, Self-Employment Statement, with receipts.

Medicaid

Form 1040, U.S. individual federal income tax return.

Form 1040NR, Non-resident alien federal income tax return.

Schedule C, Profit or Loss From Business, if accompanied by a tax return.

Schedule F, Farm Rental Income and expenses if accompanied by a tax return.

COUNTABLE SELF-EMPLOYMENT INCOME

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts; See Farming Expenses in this item.

Example: An individual operates a retail store. Total proceeds for the month are \$3,200. Allowable expenses total \$3,800. The \$600 deficit **cannot** be used to offset any other income.

Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

Note: MAGI related Medicaid uses adjusted gross income as declared on the federal tax return.

As a result, the Department properly determined the Petitioner's eligibility for FAP benefits based on the 25% deduction of the Petitioner's total proceeds for expenses from her self-employment income because the Petitioner did not want to nor did she submit the required DHS 431 with receipts.

DECISION AND ORDER

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 FAP eligibility based on 25% deduction of the Petitioner's total proceeds because the Petitioner failed to submit a DHS 431 with receipts.

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

Carmon I. Sahie

Carmen G. Fahie Administrative Law Judge

CF/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

Cindy Tomczak Berrien County DHHS 401 Eighth Street Benton Harbor, MI 49023 MDHHS-Berrien-Hearings@michigan.gov

Interested Parties

M. Holden D. Sweeney BSC3 MOAHR

Via-First Class Mail :

Petitioner

