



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 19, 2022
MOAHR Docket No.: 22-005009
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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.

On November 3, 2022, MOAHR received from Petitioner a request to adjourn the November 21, 2022 hearing and to have it rescheduled for an in-person hearing with a MOAHR administrative law judge (ALJ) at the local Michigan Department of Health and Human Services (MDHHS) office.

Under MOAHR Administrative Hearing Standard 2022-1, a hearing is conducted remotely unless "(i) [the assigned ALJ] determines in their discretion that all or part of a proceeding should be in person or (ii) a party submits a written request demonstrating good cause for why all or part of the proceeding should be in person and the [ALJ] finds the request should be granted because of accessibility limitations, specific evidentiary issues, or other unique circumstances."

After due notice, a hearing was held on December 12, 2022, via Zoom. The hearing was scheduled consistent with MOAHR Administrative Hearing Standard 2022-1, which provides that administrative hearings by default are conducted remotely. The Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Thomas Jones, Assistant Payments Supervisor

In his request for an in-person hearing, Petitioner did not specify his reasons for wanting the hearing to be conducted in-person. In the hearing held on December 12, 2022, the undersigned ALJ first heard argument from Petitioner on having the hearing adjourned and rescheduled for an in-person hearing. Petitioner stated that he has documentation to present regarding his case. The undersigned explained to Petitioner that he may present any documentation that he wishes, without the need for an in-person hearing. Additionally, Petitioner appeared at the local MDHHS office, and the Zoom hearing was held with Petitioner and Mr. Jones together in the same room. Petitioner failed to

establish good cause for an in-person hearing and the Zoom hearing was held to completion on December 12, 2022.

ISSUE

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case due to excess 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.
2. Petitioner's household is a group size of one and he is a Senior, Disabled, or Disabled Veteran (S/D/V) individual.
3. Petitioner receives \$ [REDACTED] per month in unearned income from Retirement, Survivors, and Disability Insurance (RSDI); \$ [REDACTED] per week in unearned income from unemployment benefits; and \$ [REDACTED] per month in unearned income from an annuity (Exhibit A, pp. 23-29).
4. On [REDACTED] 2022, MDHHS issued a Notice of Case Action to Petitioner informing him that his FAP case was closed due to excess net income, effective [REDACTED] 2022 (Exhibit A, pp. 6-10).
5. On October 20, 2022, MDHHS received a timely submitted hearing request from Petitioner disputing the closure of his FAP case (Exhibit A, pp. 3-5).

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 [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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing regarding the closure of his FAP case due to excess net income. FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the gross benefit amount of RSDI as unearned income. BEM 503 (April 2022), p. 29. In this case, MDHHS calculated Petitioner's unearned income amount from RSDI to be \$[REDACTED] monthly. Petitioner also receives \$[REDACTED] per week in unemployment benefits. The gross amount of unemployment benefits is counted as unearned income. BEM 503, pp. 37-38. Petitioner receives \$[REDACTED] per month in an annuity. Payments an individual receives from an annuity are unearned income. BEM 503, p. 4. Petitioner confirmed these amounts are what he receives each month.

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. Income received weekly is multiplied by 4.3. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income amounts received twice a month are added together. BEM 505, pp. 7-9. Converting Petitioner's biweekly unemployment income to a monthly amount equals \$[REDACTED]. Adding this amount to the monthly RSDI income of \$[REDACTED] and monthly annuity of \$[REDACTED] equals \$[REDACTED] the same amount that MDHHS calculated. Therefore, MDHHS properly calculated Petitioner's unearned income amount.

MDHHS uses certain expenses to determine the net income for FAP eligibility and benefit levels. BEM 554 (January 2022) p. 1. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, an earned income deduction for any earned income, childcare, court-ordered child support and arrearages paid to non-household members, the medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554, p. 1.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. MDHHS properly used the standard deduction for a group size of two, effective October 1, 2021, of \$177.00. RFT 255 (October 2021), p. 1. As Petitioner qualifies as an S/D/V member, the group is entitled to deductions for verifiable medical expenses that the S/D/V member incurs in excess of \$35. BEM 554, p. 1. Petitioner did not submit any medical expenses for consideration in his FAP

budget. Petitioner confirmed that the household pays no dependent care or child support expenses. Therefore, MDHHS properly calculated Petitioner's household deductions to total \$177.00. MDHHS subtracted the total deductions from the total income amount to determine Petitioner's adjusted gross income to be \$ [REDACTED]

MDHHS calculated Petitioner's housing expenses from his report of \$1,050.00 in monthly rent and responsibility for paying utilities. Petitioner was credited with a standard heating/utility (h/u) credit of \$559.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. Petitioner's total allowable shelter expense is \$1,609.00. \$1,609.00 less \$1,140.50 (or 50% of Petitioner's AGI) results in \$468.50 as Petitioner's excess shelter deduction.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income. Petitioner's adjusted gross income is \$ [REDACTED] less the excess shelter deduction of \$468.50, results in \$ [REDACTED] in net income for Petitioner's group. S/D/V FAP groups must have income below the net income limits. BEM 550 (January 2022), p. 1. Petitioner is a S/D/V group size of one, subject to the net income limit of \$1,074.00. RFT 250 (October 2021), p. 1., Col. B. Since Petitioner's net income exceeds the net income limit for his group size, Petitioner is not eligible for FAP. Therefore, MDHHS acted in accordance with policy in closing Petitioner's FAP case 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 the Department acted in accordance with Department policy when it closed Petitioner's FAP case due to excess net income.

DECISION AND ORDER

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

DN/mp



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-Oakland-6303-Hearing
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]