



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 29, 2022
MOAHR Docket No.: 22-005521
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 December 21, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Deedee Parker, Assistance Payments Worker and Laronda McKenzie, Assistance Payments Supervisor.

ISSUE

Did the Department properly process Petitioner's State Emergency Relief (SER) application and deny her Food Assistance Program (FAP) application?

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 or around [REDACTED] 2022, Petitioner submitted an application for SER and FAP benefits. (Exhibit A, pp. 7-14)
2. On or around October 20, 2022, the Department sent Petitioner a Notice of Case Action, advising her that her FAP application was denied because of excess income. (Exhibit A, pp. 15-19)
3. On or around October 20, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice advising her that her SER application was denied due to excess income.

4. On or around November 10, 2022, Petitioner requested a hearing, disputing the Department's actions with respect to the SER and FAP.
5. After receiving Petitioner's request for hearing, the Department reprocessed the [REDACTED] 2022, application, as additional income information was received.
6. On or around November 28, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice, approving her request for SER assistance. (Exhibit A, pp. 56-58)
7. On or around November 28, 2022, the Department sent Petitioner a Notice of Case Action, advising Petitioner that her application for FAP benefits was denied due to excess income. (Exhibit A, pp.60-62)
8. At the hearing, Petitioner verbally withdrew her request for hearing concerning the SER program, as the issue had been resolved and her application was approved. As such, the request for hearing regarding the SER program will be DISMISSED.

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 disputed the Department's denial of her [REDACTED] 2022, FAP application. The Department representative testified that Petitioner was not eligible for FAP because her household income exceeded the income limit. The Department representative testified that the application was reprocessed after the request for hearing was received and again, denied for excess income as reflected in the November 28, 2022, Notice of Case Action.

In order to be eligible for FAP benefits, FAP groups must have income below the applicable gross and/or net income limits based on their group size. Petitioner is subject to the net income test. BEM 213 (October 2021); BEM 212 (January 2022); BEM 550 (January 2022); RFT 250 (October 2021). The Department properly applied a net income limit for Petitioner's confirmed four-person group size of \$2,209. RFT 250, p. 1.

The Department presented a FAP EDG Net Income Results Budget for the application month of September 2022 which was thoroughly reviewed to determine if the Department properly concluded that Petitioner's household had excess income. (Exhibit A, pp. 52-56). All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1 – 5. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of \$42; and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount [REDACTED] as unearned income. BEM 503 (January 2021), pp. 28-37.

The Department 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), pp. 1-2. In prospecting income, the Department 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. The Department will use income from the past 60 or 90 days for fluctuating or a regular income if: the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. The Department will compute the average monthly income (and convert weekly and every other week amounts) based on the amounts and the number of months entered. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (April 2022), pp. 6-7.

The budget shows that the Department concluded Petitioner had gross unearned income in the amount of [REDACTED]. The Department representative testified that it considered [REDACTED] in gross SSI for Petitioner's daughter and [REDACTED] and SSP payments. Upon review of the documentary evidence presented at the hearing, the Department properly calculated Petitioner's unearned income of [REDACTED]. The budget for September 2022 shows earned income of [REDACTED]. The Department representative testified that because Petitioner had one larger paycheck in September 2022, it applied the policy identified above and considered a 90-day projection to determine the standard monthly amount of Petitioner's prospective income. The Department identified the pay amounts and pay dates relied upon which were supported by the Work Number, presented for review. Petitioner testified that in the months of July 2022 and September 2022 she worked some holiday hours and received paychecks higher than her usual pay. A review of the Work Number shows higher than usual income received on

September 23, 2022, and two paychecks in July 2022. However, all other pay dates and pay amounts considered by the Department are reflective of Petitioner's consistent and usual pay. Therefore, when Petitioner's gross biweekly earnings from employment are prospectively budgeted and converted to a standard monthly amount using the 2.15 multiplier, the Department properly calculated the earned income.

The deductions to income were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2022), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 1-8.

In this case, the Department properly applied a \$784 earned income deduction, based on 20% of Petitioner's earned income. There was no evidence presented that Petitioner had any out-of-pocket dependent care, medical expenses, or child support expenses; therefore, the budget properly did not include any deduction for dependent care, medical expenses, or child support. The Department properly applied a standard deduction of \$193 which was based on Petitioner's confirmed group size of four. RFT 255 (October 2021), p. 1. With respect to the excess shelter deduction, the Department properly considered Petitioner's confirmed housing expenses of \$1,150 and properly considered the \$559 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. Thus, the Department properly calculated the excess shelter deduction.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Because Petitioner's net income of \$3,803 was greater than the \$2,209 net income limit based on her four-person household group size, the Department properly denied Petitioner's [REDACTED] 2022, FAP application, as her household's net income exceeded the income limit. Petitioner is advised that she is entitled to submit a new application for FAP benefits, and her eligibility will be determined based on the at the time of application.

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 denied Petitioner's FAP application.

DECISION AND ORDER

Accordingly, the request for hearing concerning the SER is **DISMISSED** and the Department's FAP decision is **AFFIRMED**.

ZB/ml



Zainab A. Baydoun
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
Dora Allen
Wayne-Gratiot/Seven-DHHS
4733 Conner Suite G 7 Lappin
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**MDHHS-Wayne-76-
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Interested Parties

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