



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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MI [REDACTED]

Date Mailed: February 9, 2023
MOAHR Docket No.: 23-000193
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 February 6, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Caitlin Dodge, Assistance Payments Supervisor.

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 or around [REDACTED] 2022, Petitioner submitted an application for FAP benefits. (Exhibit A, pp. 5-17)
2. On the application and during an application interview conducted with the Department on [REDACTED] 2022, Petitioner reported that her household size is one, that she is employed and receives weekly pay, that she receives Social Security income monthly, that she is responsible for annual property taxes in the amount of \$2,593.08, and that she has paid \$100 in medical expenses. (Exhibit A, pp. 5-24)
3. On or around December 22, 2022, the Department sent Petitioner a Notice of Case Action, advising her that her [REDACTED] 2022, FAP application was denied because her net income exceeded the limit for the program. (Exhibit A, pp. 59-63)

4. On or around January 18, 2023, Petitioner verbally requested a hearing with the Department to dispute the denial of her FAP application.

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 FAP application. While Petitioner initially asserted that she submitted an application for FAP benefits in November 2022 and only sought assistance for the month of November 2022 due to being on medical leave from her job, the evidence established, and Petitioner later confirmed that the only application submitted was received by the Department on [REDACTED] 2022. The Department representative testified that Petitioner was not eligible for FAP because her household income exceeded the income limit. The Department representative testified that Petitioner was notified of the denial through a Notice of Case Action issued on December 22, 2022.

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 2022); BEM 212 (January 2022); BEM 550 (January 2022); RFT 250 (October 2022). The Department properly applied a net income limit for Petitioner's confirmed one-person group size of \$1,133. RFT 250, p. 1. The Department presented a FAP EDG Net Income Results Budget for the application month of [REDACTED] 2022 which was thoroughly reviewed to determine if the Department properly concluded that Petitioner's household had excess income. (Exhibit A, pp. 55-57).

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 Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2023), pp. 29-32.

The budget shows that the Department concluded Petitioner had gross unearned income in the amount of \$[REDACTED] which the Department representative testified consisted of Petitioner's monthly RSDI benefits. Petitioner disputed that she receives monthly RSDI benefits in the amount of \$[REDACTED] and testified that she only receives \$[REDACTED] monthly. The Department representative testified that Petitioner's RSDI income information was obtained through the State Online Query (SOLQ) report which was presented for review. (Exhibit A, pp. 25-27). According to the SOLQ, Petitioner was receiving \$[REDACTED] monthly starting December 1, 2021, and in January 2022, began receiving \$[REDACTED]. The SOLQ shows that Petitioner's RSDI increased to \$[REDACTED] effective December 1, 2022. Petitioner did not present any documentary evidence to dispute the information obtained from the SOLQ, which is an acceptable verification source used by the Department. See BEM 503, pp. 44-45; BAM 801 (January 2021), pp. 1-4. Therefore, the Department properly calculated Petitioner's unearned income in the amount of \$[REDACTED].

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 (October 2022), 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 weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 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 (July 2022), pp. 6-7.

The budget shows earned income of \$[REDACTED] which the Department representative testified consisted of Petitioner's weekly earnings from employment. Specifically, the Department representative testified that it relied upon information obtained from the Work Number and considered Petitioner's weekly pay for the 30-day time period prior to the application. The Department identified the pay amounts and pay dates relied upon which were supported by the Work Number, presented for review. (Exhibit A, pp. 37-54).

Petitioner testified that in the months of [REDACTED] 2022 and [REDACTED] 2022 she missed several days of work and did not receive income due to being on medical leave. Petitioner raised concerns with respect to the Department's reliance on the information obtained from the Work Number but did not present any evidence to dispute that the

pay amounts and pay dates identified on the Work Number were accurate. The Department is authorized to use information obtained from the Equifax Verification Services, formerly known as the Work Number in order to verify income from employment. See BEM 501, pp. 12-13. Upon review, when Petitioner's gross weekly earnings from employment are prospectively budgeted and converted to a standard monthly amount using the 4.3 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 (October 2022), p. 1; BEM 556 (January 2023), p. 1-8.

In this case, the Department properly applied a \$535 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, or child support expenses; therefore, the budget properly did not include any deduction for dependent care, or child support. The Department properly applied a standard deduction of \$193 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2022), p. 1. The Department applied a standard medical deduction of \$165 based on Petitioner's report that she was responsible for \$100 in medical expenses. While Petitioner asserted that her medical expenses were higher, she confirmed that she did not report any additional expenses to the Department and did not submit verification of any additional medical expenses. Therefore, the Department properly applied a \$165 standard medical deduction in accordance with BEM 554, pp.8-11.

With respect to the excess shelter deduction, the Department properly considered \$216.09 as a housing expense, which consisted of Petitioner's reported annual property taxes in the amount of \$2,593.08, which when taken monthly equal \$216.09. Although Petitioner asserted that she is also responsible for home insurance, Petitioner confirmed that she did not inform the Department of the expense and thus, it was properly omitted from the calculation of the housing expense/excess shelter deduction. The Department also properly considered the \$620 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. See BEM 554, pp.13-24. Thus, the Department properly calculated the excess shelter deduction. While Petitioner identified additional expenses that she is responsible for, upon review, Petitioner was not entitled to any additional deductions for expenses incurred.

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 [REDACTED] was greater than the \$1,133 net income limit based on her one-person household group size, the Department properly denied Petitioner's [REDACTED] 2022, FAP application, as her household's net income exceeded the income limit.

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 Department's 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

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

BSC4
M Holden
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Via First Class Mail :

Petitioner

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