



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]  
[REDACTED] MI [REDACTED]

Date Mailed: March 31, 2023  
MOAHR Docket No.: 23-000805  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Veronica Rumschlag, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-30.

### **ISSUE**

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits 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. On [REDACTED], 2022, Petitioner applied for FAP. (Exhibit A, pp. 5-11)
2. On the application, Petitioner reported employment income with an average of 72 hours per week at [REDACTED] per hour and being paid once every 2 weeks. (Exhibit A, p. 8)
3. During a December 9, 2022 interview, the Department asked about the income to confirm whether what was reported on the application was correct. It was noted that Petitioner reported working 70 hours per week at [REDACTED] per hour and she is

paid bi-weekly. Petitioner also was noted to report that she does not get paid time and a half for anything over 40 hours per week. (Exhibit A, p. 16; APS Testimony)

4. On December 9, 2022, a Notice of Case Action was issued to Petitioner stating FAP was denied due to income in excess of program limits. (Exhibit A, pp. 23-27)
5. On February 8, 2022, Petitioner requested a hearing contesting the Department's determination and provided two paycheck stubs from November 2022. (Exhibit A, pp. 4 and 29-30)

### **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.

For FAP, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550, January 1, 2022, p. 1. For a group size of one, the FAP standard deduction is \$193.00. RFT 255, October 1, 2022, p. 1. For a group size of one, the FAP monthly gross income limit was \$1,473.00 and the monthly net income limit was \$1,133.00. RFT 250, October 1, 2022, p. 1.

For FAP the Department considers child support expenses as well as dependent care expenses. Verification is required for both child support and dependent care expenses. BEM 554, October 1, 2022, pp. 6-8. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2022), p. 13. Heat and utility expenses can also be included as allowed by policy. FAP groups that qualify for the heat/utility (h/u) standard do not receive any other individual utility standards. BEM 554, p. 16.

For FAP, an interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115, October 1, 2022, p. 18.

In this case, the Department relied upon the income information Petitioner reported on the assistance application, and confirmed during the interview, to determine eligibility for FAP. (Exhibit A, pp. 8, 16, and 22). On the application, Petitioner reported employment income with an average of 72 hours per week at [REDACTED] per hour and being paid once every 2 weeks. (Exhibit A, p. 8). During a December 9, 2022 interview, the Department asked about the income to confirm whether what was reported on the application was correct. It was noted that Petitioner reported working 70 hours per week at [REDACTED] per hour and she is paid bi-weekly. Petitioner also was noted to report that she does not get paid time and a half for anything over 40 hours per week. (Exhibit A, p. 16; APS Testimony). The Department budgeted income of [REDACTED] every two weeks. (Exhibit A, pp. 19-22 and 24). Petitioner's income exceeded both the monthly gross income limit of \$1,473.00 and the monthly net income limit was \$1,133.00. RFT 250, October 1, 2022, p. 1. Accordingly, on December 9, 2022, a Notice of Case Action was issued to Petitioner stating FAP was denied due to income in excess of program limits. (Exhibit A, pp. 23-27).

Petitioner's testimony indicated she misunderstood the Department's questions. Petitioner was answering how many hours she works per pay period, rather than per week. Petitioner denied that the Department asked about her hours and income a second time during the interview. Petitioner asserted that she was only asked once. Further, Petitioner indicated she believed the Department should have obtained verification of her income, rather than just relying on the information provided on the application and during the interview. (Petitioner Testimony).

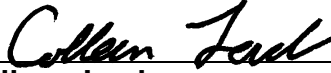
As stated in the BAM 115 policy, even it is clear from the application that the group is ineligible, the Department is still required to complete an interview. In this case, the Department completed the required interview, even when the information reported on the application clearly made Petitioner ineligible for FAP. While the parties dispute whether the Department confirmed Petitioner's hours at work once or twice during the interview, it was uncontested that Petitioner reported working 70 hours per week.

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 application for FAP benefits due to excess income.

### **DECISION AND ORDER**

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

CL/ml

  
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**Colleen Lack**  
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**  
Kimberly Kornoelje  
Kent County DHHS  
121 Franklin SE  
Grand Rapids, MI 49507  
**MDHHS-Kent-Hearings@michigan.gov**

**Interested Parties**

BSC3  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail :**

**Petitioner**

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