



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: March 31, 2023  
MOAHR Docket No.: 23-000866  
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. After due notice, a telephone hearing was held on March 22, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Katherine Schindlbeck, Eligibility Specialist (ES) and Theresa Ware, Family Independence Manager (FIM).

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

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits 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. On January 5, 2023, Petitioner submitted a Renew Benefits. (Exhibit A, pp. 6-8)
3. On January 12, 2023, the Department received a paycheck stub. (Exhibit A, p. 9)
4. On January 12, 2023, the Department received an Employer Statement explaining that due to a staffing shortage, Petitioner has been required to travel far distances for work and the extra hours added to her timecard are for travel time, but overtime is not a typical occurrence for Petitioner. (Exhibit A, p. 10)

5. On January 27, 2023, the Department ran a report from The Work Number to verify Petitioner's earnings. (Exhibit A, pp. 11-17)
6. On January 30, 2023, the Department had a telephone contact with Petitioner's employer. It was reported that Petitioner would continue to have 2-3 hours of overtime per pay period for the time being. (Exhibit A, p. 18)
7. On January 30, 2023, a Notice of Case Action was issued closing Petitioner's FAP case effective March 1, 2023 based on income in excess of program limits. (Exhibit A, pp. 24-27)
8. On February 9, 2023, the Department received Petitioner's request for hearing contesting the FAP closure. (Exhibit A, pp. 4-5)

### **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 (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 two, the FAP standard deduction is \$193.00. RFT 255, October 1, 2022, p. 1. For a group size of two, the FAP monthly gross income limit was \$1,984.00 and the monthly net income limit was \$1,526.00. 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.

In this case, the Department relied upon the income information from The Work Number Report and the January 30, 2023, telephone contact with Petitioner's employer that indicated Petitioner would continue to have 2-3 hours of overtime per pay period for the time being. (Exhibit A, pp. 11-18; ES Testimony). The Department determined that Petitioner was no longer eligible for FAP based on gross income that exceeded the monthly gross income limit. (Exhibit A, pp. 19-25).

Petitioner testified that the overtime is not guaranteed and she had not had overtime in several weeks. (Petitioner Testimony).

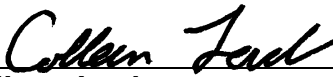
The Department properly closed Petitioner's FAP case based on the available information at the time of the January 30, 2023 determination. The Department properly considered the verified employment income as well as the employer's statement that some overtime would continue for the time being. Accordingly, the closure of Petitioner's FAP case must be upheld.

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 based on income in excess of the gross income limit.

**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**  
Renee Olian  
Kalamazoo County DHHS  
427 E Alcott St  
Kalamazoo, MI 49001  
**MDHHS-Kalamazoo-  
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**Interested Parties**

BSC3  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail :**

**Petitioner**

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