



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: March 30, 2023  
MOAHR Docket No.: 23-001023  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**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 hearing was held via telephone conference line on March 23, 2023. Petitioner appeared and was unrepresented. ██████████ Petitioner's wife testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, specialist. Huda Qandah from Arab-American Chaldean Council participated as an Arabic-English translator.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of February 2023, Petitioner was an ongoing recipient of FAP benefits as a member of a benefit group including his spouse.
2. As of February 2023, neither Petitioner nor his spouse had ongoing income from the Social Security Administration (SSA).
3. As of February 2023, Petitioner may or may not have income from food delivery services.
4. On February 1, 2023, MDHHS terminated Petitioner's FAP eligibility beginning March 2023 due to excess net income.

5. On February 8, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits.
6. On February 23, 2023, Petitioner reported to MDHHS having \$ [REDACTED] in online sales income during 2022.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits.<sup>1</sup> Exhibit A, pp. 3-4. A Notice of Case Action dated February 1, 2023, stated that Petitioner's FAP eligibility would end March 2023 due to excess net income. Exhibit A, pp. 13-17.

BEM 556 outlines the factors and calculations required to determine a client's net income for FAP benefits. FAP net income factors include group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents for March 2023 listing all relevant budget factors and calculations. Exhibit A, pp. 10-12. The notice dated February 1, 2023, also included a summary of all budget factors. Exhibit A, p. 14. During the hearing, the focus was on three different incomes budgeted by MDHHS: unearned, employment, and self-employment.

MDHHS factored an unearned income of \$ [REDACTED]. MDHHS testimony initially testified that the unearned income was properly budgeted based on income received by Petitioner and his spouse from the SSA. Petitioner responded that neither he nor his wife receive income from SSA. MDHHS testimony eventually acknowledged that documentation from SSA showed no ongoing income for Petitioner and his spouse from SSA. Thus, MDHHS improperly budgeted \$ [REDACTED] in unearned income.

FAP budget documents listed \$ [REDACTED] in employment income. MDHHS testimony indicated that it documented Petitioner's reporting of income of \$ [REDACTED] per month from performing food delivery. Petitioner responded that he never received income from any food delivery service. It is curious that MDHHS documented a reporting of food delivery income that Petitioner denied ever receiving. MDHHS failed to present documentation of Petitioner's alleged reporting. MDHHS also presumably did not attempt to verify the

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<sup>1</sup> A document submitted with Petitioner's hearing request suggested a second dispute concerning Medicare Savings Program eligibility. Exhibit A, p. 5. Petitioner testified he did not dispute MSP eligibility and the hearing was conducted accordingly.

income as no verification documents were presented.<sup>2</sup> Given the evidence, MDHHS failed to establish it properly budgeted \$[REDACTED] in monthly employment income from food delivery employment.

MDHHS also budgeted \$[REDACTED] in self-employment income for Petitioner's benefit group. MDHHS testified it calculated the income from Petitioner's 2021 Schedule C tax document listing gross income of \$[REDACTED]. Exhibit A, p. 7. Petitioner's testimony acknowledged earning some income by selling items online but denied earning any amount approaching \$[REDACTED] per month; indeed, MDHHS documented that Petitioner reported making only \$[REDACTED] in sales during 2022. Exhibit A, p. 19. Also, given Petitioner's Schedule C income, no known math justified MDHHS's average monthly self-employment income of \$[REDACTED]. Further, policy states that a Schedule C is acceptable verification of self-employment expenses (when accompanied by a tax return); MDHHS gave no evidence that it factored expenses or requested a tax return from Petitioner. The evidence failed to establish that MDHHS properly budgeted self-employment income.

The evidence failed to establish that MDHHS properly calculated unearned, employment, or self-employment income for Petitioner's benefit group. Thus, MDHHS improperly terminated Petitioner's FAP eligibility. As a remedy, MDHHS will be ordered to reinstate Petitioner's FAP eligibility beginning March 2023.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility beginning March 2023. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP eligibility beginning March 2023 subject to the finding that MDHHS failed to establish that it properly budgeted income; and
- (2) Issue notice and benefit supplements, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



**Christian Gardocki**

Administrative Law Judge

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<sup>2</sup> Generally, employment income is countable and must be verified. BEM 501 (July 2022) p. 10. Exceptions include strikers earnings, student earnings, temporary census worker income(see *Id.*). No known exceptions are applicable to Petitioner's circumstances.

**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-Wayne-17-hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]