



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: April 19, 2023  
MOAHR Docket No.: 23-001545  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

**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 April 13, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Silvester Williams, Assistant Payments Supervisor.

**ISSUE**

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case due to excess net 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 for a group size of three, consisting of her █████-year-old son, ██████████ (Son), █████-year-old son, and herself.
2. Petitioner is a Senior, Disabled, or Disabled Veteran (S/D/V) individual.
3. Petitioner receives \$██████████ per month in unearned income from Retirement, Survivors, and Disability Insurance (RSDI).
4. Son receives \$██████████ in bi-weekly income from unemployment benefits (Exhibit A, pp. 14-17).
5. On February 25, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that her FAP case was closed due to excess net income (Exhibit A, pp. 6-10).

6. On March 15, 2023, MDHHS received a timely submitted hearing request from Petitioner regarding the closure of her FAP case (Exhibit A, pp. 3-5).

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

Petitioner requested a hearing regarding the closure of her FAP case due to excess net income.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 11-13). During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. A standard monthly amount must be determined for each income source used in the budget. 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 (October 2022) pp. 7-9. Petitioner receives income from RSDI and Son receives bi-weekly income from unemployment benefits. RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the gross benefit amount of RSDI as unearned income. BEM 503 (January 2023), p. 29. MDHHS counts the gross benefit amount of unemployment benefits as unearned income. BEM 503, pp. 37-38. In this case, MDHHS testified that they converted the bi-weekly income that Son receives to a standard monthly amount using the 2.15 multiplier, totaling \$[REDACTED]. Petitioner testified that she receives \$[REDACTED] in monthly RSDI income. When adding the RSDI income to the unemployment income, this totals \$[REDACTED]. It is unclear how MDHHS calculated the unearned income amount of \$[REDACTED]. However, this ultimately benefits the Petitioner to rely upon a lower income amount in determining her eligibility for FAP.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2022) p. 1. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, the medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554, p. 1.

Petitioner's FAP benefit group size of three justifies a standard deduction of \$193.00. RFT 255 (February 2023), p. 1. MDHHS properly included the standard deduction in Petitioner's household budget. Petitioner testified that she does not pay any dependent care or child support expenses.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, p. 9. Petitioner did not submit for consideration out of pocket medical expenses. MDHHS issued a verification checklist to Petitioner regarding her actual medical expenses so that they could be considered in Petitioner's household budget in the future. Since Petitioner did not submit medical expenses for consideration, MDHHS properly counted Petitioner's medical expenses to be \$0.00. Thus, MDHHS properly counted the group's non-shelter expenses to be \$193.00.

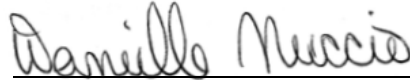
MDHHS testified that it calculated Petitioner's housing expenses from her report of \$400.00 in rent and responsibility for paying gas and electricity. Petitioner was credited with a standard heating/utility (h/u) credit of \$624.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. In this case, that results in a negative number. Therefore, Petitioner's excess shelter amount is \$0.00.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$2,784.00 in net income for Petitioner's group. S/D/V FAP groups must have income below the net income limits. BEM 550 (January 2022), p. 1. Petitioner is a S/D/V group size of three, subject to the net income limit of \$1,920.00. RFT 250 (October 2022), p. 1., Col. B. Since Petitioner's net income exceeds the net income limit for her group size, Petitioner is not eligible for FAP. Therefore, MDHHS acted in accordance with policy in closing Petitioner's FAP case due to excess net income.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED**.

DN/mp



**Danielle Nuccio**

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**  
MDHHS-Oakland-6303-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

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