



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 21, 2023
MOAHR Docket No.: 23-001577
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 April 13, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, specialist.

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 January 2023, Petitioner was a FAP benefit group member including her spouse and a minor child.
2. On an unspecified date, Petitioner returned to MDHHS a Semi-Annual Contact Report (SACR) for continuing FAP benefits beginning March 2023. Petitioner's SACR reported she works eight hours per week for ██████████ (hereinafter, "Employer").
3. As of February 2023, Petitioner's spouse received monthly self-employment income from two sources totaling \$██████████ (dropping cents and after expenses) and monthly gross wages of \$██████████.

4. On February 22, 2023, Petitioner submitted to MDHHS an application reporting no ongoing income from Employer.
5. On March 2, 2023, MDHHS received documentation from Employer stating that Petitioner is paid \$[REDACTED] hourly and works 24 hours per week.
6. On March 2, 2023, MDHHS terminated Petitioner's FAP eligibility beginning March 2023 due to excess gross income based on Petitioner working 24 hours per week for Employer.
7. On March 13, 2022, Petitioner requested a hearing to dispute the termination of FAP benefits beginning March 2023.

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. Exhibit A, pp. 3-4. A Notice of Case Action dated March 2, 2023, stated that Petitioner was ineligible for FAP benefits beginning March 2023 due to excess gross income. Exhibit A, pp. 6-9.

To be eligible for FAP benefits, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017) p. 1. An SDV group is one with a senior (a person over the age of 60 years), disabled, or disabled veteran. *Id.*

A traditionally categorically eligible FAP group is one whose members are all Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or Supplemental Security Income recipients (SSI). BEM 213 (January 2023) p. 1. Non-traditionally categorically eligible groups are categorically eligible based on Domestic Violence Prevention Services (DVPS) but an income and asset test is required. *Id.*, p. 2. Categorical FAP groups with three or more members that exceed the gross and/or 100 percent net income limit, but whose gross income is at or below 200% of the Federal Poverty Level (FPL) and who meet the asset limit and all other FAP eligibility requirements may be eligible for benefits as low as \$1 as determined by the Food Assistance Issuance Tables in RFT 260. *Id.*, p. 4.

It was not disputed that Petitioner was a member of a household including her spouse and child. There was no evidence that any household members were recipients of FIP, SDA, or SSI. There was also no evidence that any members of Petitioner's benefit group were senior, disabled, or disabled veterans. The evidence supported that

Petitioner was a member of a three-person, non-SDV, and non-traditional categorically eligible FAP group. As such, Petitioner's benefit group is subject to gross income testing.

It was not disputed that Petitioner's spouse received monthly self-employment income totaling \$█████ (dropping cents and after expenses).¹ It was also not disputed that Petitioner's spouse received monthly employment income of \$█████ (dropping cents).²

The only dispute concerned whether MDHHS properly factored Petitioner's wages from Employer. Petitioner testified she is training with Employer and rarely works. Petitioner's testimony was consistent with her reporting on a SACR submitted on an unspecified date stating she only works eight weekly hours and is paid biweekly. On an application dated ██████ 2023, Petitioner did not report wages from Employer as she testified that she had not received recent wages from Employer. Petitioner's testimony suggested that MDHHS should have budgeted no more than eight hours of weekly employment.

Despite Petitioner's reporting, she still had to verify her income from Employer, which she later did. On March 2, 2023, Petitioner sent MDHHS documentation from Employer stating Petitioner worked 24 hours per week for \$█████ hourly. For FAP benefits, MDHHS generally counts gross employment income.³ BEM 501 (July 2022) p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2022) p. 5. Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. Multiplying Petitioner's biweekly hours of 48 by her hourly wage results in \$█████ in biweekly income. Multiplying the biweekly income by 2.15 results in a converted monthly income of \$█████ (dropping cents).

Consideration was given to whether MDHHS properly projected Petitioner's wages given Petitioner's earlier reporting of working less than 24 hours per week. MDHHS cannot be faulted for projecting Petitioner's income from documentation from Employer and submitted by Petitioner. Given the evidence, MDHHS properly calculated Petitioner's wages from Employer as \$█████.

Adding Petitioner's wages (\$█████) to Spouse's income of \$█████ (\$█████+\$█████) results in a total gross income of \$█████. The monthly gross income limit for a three-person,

¹ Petitioner's spouse received gross self-employment income averaging \$█████ from one source. Petitioner's spouse also received \$█████ in January 2023 and \$█████ in December 2022 from a second source resulting in an average gross monthly income of \$█████. After applying a 25% disregard to the gross monthly average results in a countable self-employment income of \$█████ (dropping cents) \$█████ and a second source of self-employment monthly income of \$999.74. After applying a standard 25% credit. Countable self-employment income was \$█████ (dropping cents).

² Petitioner's spouse's wages were based on weekly employment income of \$█████ which MDHHS converts to a monthly income by multiplying by 4.2 (see BEM 505).

³ Income for temporary census workers, military combat pay, and work study are examples of wages that are not countable (see BEM 501).

non-SDV, non-traditional categorically eligible FAP group is \$3,840.⁴ RFT 250 (October 2022) p. 1. Petitioner's benefit group's countable gross income exceeded the gross income limit. Thus, MDHHS properly terminated Petitioner's FAP eligibility beginning March 2023. Petitioner's recourse is to reapply for FAP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning March 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
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

⁴ The Notice of Case Action dated March 2, 2023, stated that Petitioner exceeded the gross income limit of \$2,495. Exhibit A, p. 7. A gross income limit of \$2,495 is 130% of the FPL and is applicable when a benefit group is not categorically eligible. Presumably, MDHHS determined Petitioner's FAP eligibility based on 200% of the FPL, and in compliance with policy, determined that the group was not categorically eligible because the group's income exceeded 200% of the FPL.

Via-Electronic Mail :

DHHS
MDHHS-Wayne-17-hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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