



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 25, 2023
MOAHR Docket No.: 23-001645
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 19, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shaton Mason, supervisor.

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 December 2022, Petitioner was a recipient of FAP benefits with a benefit period certified through January 2023.
2. As of December 2022, MDHHS budgeted employment income for Petitioner from an employer involved in auto sales (hereinafter, “Employer1”).
3. On December 27, 2022, Petitioner submitted to MDHHS proof of employment with ██████████ (hereinafter, “Employer2”).
4. On February 6, 2023, MDHHS terminated Petitioner’s FAP eligibility beginning February 2023 based on gross monthly income of \$██████, which included \$██████ from Employer1 and \$██████ from Employer2.

5. On February 15, 2023, MDHHS mailed Petitioner a Verification Checklist requesting proof of stopped wages from Employer1 by February 27, 2023.
6. On February 21, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits.
7. On an unspecified date before February 27, 2023, Petitioner reported to MDHHS contact information for Employer1.

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. 3-5. A Notice of Case Action dated February 6, 2023, stated that Petitioner's FAP eligibility would end February 2023 due to excess gross income. Exhibit A, pp. 21-22.

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.

The denial notice stated that Petitioner's benefit group's gross monthly income was \$[REDACTED]. Exhibit A, p. 22. Evidence supporting that the gross monthly income was properly calculated was underwhelming.

MDHHS testified it calculated monthly wages of \$[REDACTED] from Employer2 based on Petitioner's biweekly income ranging from \$[REDACTED]-\$[REDACTED]. MDHHS failed to establish how \$[REDACTED] was calculated from biweekly income not exceeding \$[REDACTED].¹

MDHHS testified Petitioner received gross monthly wages of \$[REDACTED] from Employer1. MDHHS presented literally no evidence to justify how the wages were calculated.

Furthermore, MDHHS failed to establish that any wages from Employer1 should have been counted. Petitioner testified that he reported to MDHHS that income from Employer1 stopped after he began employment with Employer2. MDHHS testified it sent Petitioner a request for verification on February 15, 2023, requesting proof of stoppage in employment with Employer1, but Petitioner failed to respond. Petitioner's testimony he thrice submitted to MDHHS verification of stopped income from Employer1 was not credible.² However, Petitioner's testimony that he reported to MDHHS a phone number for Employer so MDHHS could verify the income stoppage was credible. Clients must obtain required verification, but MDHHS must assist if they need and request help. BAM 130 (January 2023) p. 1. MDHHS presented no evidence that any efforts were spent assisting Petitioner to verify a stoppage in wages from Employer1.

Even if MDHHS properly calculated wages from Employer1 of \$[REDACTED] and wages from Employer2 of \$[REDACTED], MDHHS would have established an income totaling \$[REDACTED]. MDHHS did not allege any other income for Petitioner justifying a gross monthly income totaling \$[REDACTED].

Given the evidence, MDHHS failed to establish that Petitioner's gross income was properly calculated to be \$[REDACTED]. Thus, MDHHS failed to establish it properly terminated Petitioner's FAP eligibility due to excess gross income. As a remedy, Petitioner is entitled to a reprocessing of FAP benefits beginning February 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 February 2023. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning February 2023 subject to the following findings:
 - a. MDHHS failed to establish it assisted Petitioner in verifying stopped wages from Employer1;

¹ Documentation from Employer2 dated November 11, 2022, verified Petitioner received gross wages of \$[REDACTED]. Exhibit A, p. 13. However, MDHHS did not allege that this income was factored.

² MDHHS may occasionally misplace documents, but losing documents three times is highly improbable. Further, Petitioner's testimony acknowledged he no longer possessed the documentation he allegedly thrice submitted. It is not credible that Petitioner maintained the documents after MDHHS allegedly lost the documents twice, while submitting the documents a third time without retaining a copy.

- b. MDHHS failed to establish it properly calculated Petitioner's wages from Employer1;
 - c. MDHHS failed to establish it properly calculated wages from Employer1 and Employer2;
 - d. MDHHS failed to establish it properly calculated a gross monthly income of \$5,250 for Petitioner's group; and
- (2) Issue notice and benefit supplements, if any, in accordance with policy.
The actions taken by MDHHS are **REVERSED**.

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

Via-Electronic Mail :

DHHS
MDHHS-Wayne-31-Grandmont-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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