



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: July 12, 2023  
MOAHR Docket No.: 23-002737  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 July 5, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator and Shaton Mason, Family Independence Manager.

**ISSUE**

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On or around ██████████ 2022, Petitioner submitted an application for FAP benefits.
2. It was undisputed that Petitioner's household size is four and that she is employed, receiving biweekly earned income from employment. Two of the children in the household receive monthly unearned Supplemental Security Income (SSI) and State SSI Payments (SSP) benefits. Petitioner receives monthly child support on behalf of two children. Petitioner is also an ineligible grantee for the Family Independence Program (FIP), as she is the caretaker of her nephew. (Exhibit A)

3. On or around January 24, 2023, the Department sent Petitioner a Notice of Case Action, advising her that her [REDACTED] 2022, FAP application was denied because her net income exceeded the limit for the program. (Exhibit A, pp. 5-6)
4. On or around January 26, 2023, Petitioner requested a hearing disputing the denial of her FAP application. (Exhibit A, pp. 2-4)

### **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.

In this case, Petitioner disputed the Department's denial of her [REDACTED] 2022, FAP application. The Department representative testified that Petitioner was not eligible for FAP because her household income exceeded the income limit. Petitioner was notified of the denial due to excess income with the Department's issuance of the January 24, 2023, Notice of Case Action.

In order to be eligible for FAP benefits, FAP groups must have income below the applicable gross and/or net income limits based on their group size. Petitioner is subject to the net income test. BEM 213 (January 2023); BEM 212 (January 2022); BEM 550 (January 2022); RFT 250 (October 2022). The Department properly applied a net income limit for Petitioner's confirmed four-person group size of \$2,313. RFT 250, p. 1.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2022), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. 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,

pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2022), pp. 6-7.

The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly concluded that Petitioner's household had excess income. (Exhibit A, pp. 25-26). The Department determined that Petitioner had gross earned income in the amount of [REDACTED] which the Department representative testified consisted of Petitioner's biweekly earnings from employment. The Department representative testified that it relied on information obtained from the Verification of Employment submitted by Petitioner and completed by her employer, specifically considering pay received on December 2, 2022, in the gross amount of [REDACTED] pay received on December 16, 2022, in the gross amount of [REDACTED], and pay received on December 30, 2022, in the gross amount of [REDACTED]. Petitioner confirmed that the income amounts relied upon by the Department were correct and the employment verification form was presented for review. (Exhibit A, pp. 29-30). Upon review, and based on the above referenced policy, the Department properly calculated and prospectively budgeted Petitioner's earned income of [REDACTED].

The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of \$42; and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503 (January 2021), pp. 28-37. Additionally, child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. Department policy provides that child support payments, including arrearage payments, received by a custodial party for an adult child or a child no longer living in the home are the other unearned income of the payee as long as the money is not forwarded to the adult/child; if forwarded to the adult/child, enter as the other unearned income of the adult/child. BEM 503, pp.6-10. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505, pp. 3-5. FIP benefits are considered the unearned income of the FIP head of household. BEM 503, p. 16.

The budget shows that Petitioner's household had countable unearned income in the total amount of [REDACTED]. The Department representative testified that it considered SSI and SSP benefits for Petitioner's two children as verified through the State Online Query (SOLQ) reports which were presented for review and reflect a gross amount of SSI of [REDACTED] for one of Petitioner's children and [REDACTED] for Petitioner's second child. The Department also properly considered SSP benefits of [REDACTED] for each of Petitioner's

children and ██████ in FIP benefits for Petitioner's nephew, who is a household member. Additionally, the Department presented verification of Petitioner's receipt of child support on behalf of her two children and testified that a three-month average was considered. Upon review of the child support verification presented for review, and in consideration of child support received for the months of October 2022, November 2022, and December 2022, Petitioner received an average of ██████ in child support for one of her children and ██████ as a three month average of child support for her second child. While Petitioner did not dispute that her two children receive SSI, SSP, and that ██████ is received by the household for FIP benefits, and that she receives child support on behalf of two children, Petitioner disputed the amounts relied upon by the Department. Petitioner testified that she receives ██████ monthly in child support for her first child, ██████ monthly in child support for her second child, ██████ in FIP benefits on behalf of her nephew, ██████ in SSI for her first child, and ██████ in SSI for her second child. Despite Petitioner's testimony however, there was no documentation presented to verify the unearned income amounts identified by Petitioner to rebut the documentary evidence presented by the Department. Upon review and in light of the above referenced policy, the Department properly determined that Petitioner's household had unearned income of ██████.

The deductions to income were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2022), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
  - Excess shelter.
  - Court ordered child support and arrearages paid to non-household members.
  - Medical expenses for the SDV member(s) that exceed \$35.
  - Standard deduction based on group size.
  - An earned income deduction equal to 20% of any earned income.
- BEM 554 (October 2022), p. 1; BEM 556 (October 2021), p. 1-8.

In this case, the Department properly applied a \$721 earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care, medical expenses, or child support expenses; therefore, the budget properly did not include any deduction for dependent care, medical expenses, or child support. The Department properly applied a standard deduction of \$193 which was based on Petitioner's confirmed group size of four. RFT 255 (October 2021), p. 1. With respect to the excess shelter deduction, the Department properly considered Petitioner's housing expense of \$1,200 and properly considered the \$620 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. Thus, the Department properly calculated the excess shelter deduction.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Because Petitioner's net income of ██████ is greater than the \$2,313 net income limit based on her four-person

household group size, the Department properly denied Petitioner's [REDACTED] 2022, FAP application, as her household's net income exceeded the income limit. Petitioner is advised that she is entitled to submit a new application for FAP benefits and her eligibility will be determined based on the circumstances present at the time of application.

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 denied Petitioner's FAP application.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

ZB/ml

  
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**Zainab A. Baydoun**  
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**

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**MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov**

**Interested Parties**

BSC3  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail:**

**Petitioner**

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