



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

EMI BEGUM
3871 COMSTOCK ST
HAMTRAMCK, MI 48212

Date Mailed: July 6, 2023
MOAHR Docket No.: 23-003105
Agency No.: 119529776
Petitioner: Emi Begum

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on June 26, 2023 via teleconference. Petitioner appeared with the assistance of an interpreter. Dania Ajami, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS 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 April 16, 2023, Petitioner applied for FAP for a household of four (Exhibit A, pp. 5-7).
2. On April 17, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that the application for FAP was denied due to excess income, effective May 1, 2023 ongoing (Exhibit A, pp. 34-35).
3. On May 10, 2023, Petitioner filed a request for hearing to dispute the denial of her FAP application (Exhibit A, p. 3).

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. MDHHS 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, MDHHS denied Petitioner's application for FAP because it determined that the household was over the income limit for the program.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable earned and unearned income. BEM 500 (April 2022), pp. 1-5. MDHHS 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), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. MDHHS converts stable and fluctuating income received more often than monthly into a standard monthly amount by multiplying weekly income by 4.3, multiplying biweekly income by 2.15, or adding amounts received twice a month. *Id.* MDHHS counts the gross amount of Unemployment Compensation Benefits (UCB) as unearned income. BEM 503 (January 2023), pp. 37-38.

MDHHS determined that Petitioner's household was over the income limit for the program based on earned income received by Petitioner, unearned UCB income received by Petitioner's husband and rental income received for a second home. Regarding employment income, MDHHS determined that Petitioner received an average of \$553.61 in earned income, which is paid weekly. To convert Petitioner's earned income to a standard amount, MDHHS multiplied Petitioner's weekly pay by 4.3, which equaled \$2,380.00 (dropping the cents). For Petitioner's husband's UCB income, MDHHS multiplied the biweekly amount of \$724.00 by 2.15, which equaled \$1,556.00 (dropping the cents).

MDHHS testified that Petitioner also received income from a rental property in the amount of \$730.00 per month. MDHHS initially did not include the rental income in the budget and determined that Petitioner was over the income limit based on the receipt of employment income and UCB alone. After denying Petitioner's application on the basis of excess income, MDHHS added in the income received from the rental property and determined that Petitioner was over the income limit for the program. Thus, the new

budget calculation did not affect the outcome. This decision addresses the most recent budget calculation, which includes the rental income.

Regarding rental income received from renting a non-homestead house or apartment to another individual, MDHHS must determine whether to treat the rental income as earned or unearned income based on the time the landlord actively engages in managing the property. BEM 504 (October 2019), pp. 2-3. If the landlord engages with the property for less than 20 hours per week, it is treated as unearned income. *Id.* MDHHS counts the gross rent payment minus allowable expenses, which are 65% of the rental payment or actual rental expenses if the landlord chooses to report and verify the expenses, whichever is higher. In this case, MDHHS determined that the rental income was unearned income and budgeted \$256.00 per month in rental income after deducting allowable expenses.

Adding together the employment income, the UCB income and the rental income equals \$4,192.00. At the hearing, Petitioner did not dispute the amounts that MDHHS used to calculate her income.

After income is calculated, MDHHS must determine applicable deductions. No evidence was presented that Petitioner's FAP group was considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. Accordingly, Petitioner was eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (October 2023), p. 3.

No evidence was presented that Petitioner had dependent care expenses or court-ordered child support. MDHHS budgeted \$476.00 for the earned income deduction. MDHHS budgeted the standard deduction for a household of four, which was \$193.00. RFT 255 (February 2023), p. 1. To calculate Petitioner's Adjusted Gross Income (AGI), the earned income deduction and the standard deduction were subtracted from the countable income of \$4,192.00, which equaled \$3,523.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$0.00, MDHHS considered Petitioner's verified housing expenses of \$818.34 and budgeted the heat and utility standard of \$624.00. BEM 554, pp. 14-15. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$818.34 and the heat/utility standard of \$624.00, which equaled \$1,442.00 (dropping the cents). To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$1,761.00 from Petitioner's total shelter amount of \$1,442.00 equals

a negative number, which means that Petitioner was not entitled to an excess shelter deduction. Petitioner did not dispute the amounts used to determine the excess shelter deduction. Therefore, MDHHS properly determined that Petitioner's excess shelter deduction was \$0.00.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$0.00 from Petitioner's AGI of \$3,523.00, which equaled \$3,523.00. A household of four with a net income of \$3,523.00 is not entitled receive FAP benefits. RFT 250 (October 2022), p. 1; RFT 260 (October 2022), p. 49.

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 MDHHS acted in accordance with Department policy when it denied Petitioner's application for FAP benefits.

DECISION AND ORDER

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



LJ/tm

Linda Jordan
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

Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner

Emi Begum
3871 Comstock St
Hamtramck, MI 48212