



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 11, 2023
MOAHR Docket No.: 23-003753
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 August 3, 2023, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Raven Douthard Hearing Facilitator. Department Exhibit 1, pp. 1-20 was received and admitted.

ISSUE

Did the Department properly close Petitioner's FAP case due to excess 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 a recipient of FAP benefits.
2. Petitioner submitted redetermination paperwork and completed his redetermination interview on May 9, 2023.
3. On June 1, 2023, Notice of Case Action was sent to Petitioner informing him that his FAP case will close effective June 1, 2023, for failing to complete redetermination interview.
4. On June 30, 2023, Petitioner requested hearing disputing the closure of FAP benefits.
5. Petitioner completed his redetermination interview, and his eligibility was reviewed.

6. On July 10, 2023, Notice of Case Action was sent to Petitioner informing him that his FAP case was closing effective June 1, 2023, due to excess income. (Ex. 1, p. 12-13)
7. Petitioner made \$[REDACTED] per hour and worked 40 hours per week from Titan Security Group as his regular pay in February and March 2023. (Ex. 1, p.17)
8. The Department found that Petitioner earned \$[REDACTED] per month in gross earned income based on his most recent two check stubs that included significant irregular overtime pay. (Ex. 1, p.17)

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.

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month.

The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Exception: For FAP only, when processing a semi-annual contact, the 30-day period can begin up to 30 days before the day the MDHHS-1046, Semi-Annual Contact Report, is received by the client or the date a budget is completed. Any 30-day period that best reflects the client's prospective income within these guidelines can be used.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay(s) is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur. BEM 505, p.6

In this case, for the most recent two check stubs Petitioner earned \$[REDACTED] which included significant overtime pay. (Ex. 1, p.17) Petitioner credibly testified at hearing that he does not expect to receive any overtime going forward. Petitioner earned \$[REDACTED] per hour and worked 40 hours per week as his regular pay for the previous 4 checks he

received. (Ex. 1, p.17) The checks where Petitioner earned \$ [REDACTED] per week and \$ [REDACTED] per month in February and March 2023 best reflect the client's prospective income. BEM 505 Based on Petitioner's \$ [REDACTED] per month gross employment income, after the 20% disregard, \$193 standard deduction and \$167 homeless shelter deduction Petitioner has \$1,046 net income. A group size of 1 with \$ [REDACTED] in net income is entitled to \$23 per month in FAP.

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 did not act in accordance with Department policy when it closed Petitioner's FAP case due to excess income.

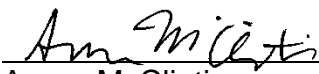
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP case going back to the date of closure.
2. Issue a supplement to reflect Petitioner's \$16 per month FAP benefit effective June 1, 2023, and ongoing.

AM/nr



Aaron McClintic
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
Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180
**MDHHS-Wayne-18-
Hearings@michigan.gov**

Interested Parties
Wayne 18 County DHHS
BSC4
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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