



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 16, 2023
MOAHR Docket No.: 23-003865
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 7, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brad Reno, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied 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 March 2023, Petitioner was at least [REDACTED] years old and an ongoing recipient of FAP benefits.
2. On March 13, 2023, Petitioner reported to MDHHS lottery winnings of \$ [REDACTED].
3. On April 20, 2023, MDHHS terminated Petitioner's FAP eligibility beginning June 2023 due to lottery winning exceeding \$ [REDACTED].
4. On [REDACTED] 2023, Petitioner reapplied for FAP benefits.
5. On June 14, 2023, MDHHS requested proof of Petitioner's assets.
6. As of June 2023, Petitioner had \$ [REDACTED] in countable assets.

7. On June 29, 2023, MDHHS denied Petitioner's application for FAP benefits due to excess assets following substantial lottery winnings.
8. On June 30, 2023, Petitioner requested a hearing to dispute the denial of FAP benefits.

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).

MDHHS documented that Petitioner verbally requested a hearing after his application for FAP benefits was denied.¹ Exhibit A, pp. 6-7. Petitioner applied for FAP benefits on May 31, 2023. Exhibit A, pp. 16-22. A Notice of Case Action dated June 29, 2023, stated that Petitioner's application was denied due to an "override process". Exhibit A, pp. 48-51. MDHHS clarified that Petitioner's application was denied because he failed to regain eligibility after his case closed due to substantial lottery winnings.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (January 2023) p. 1. Assets include cash, real property, and personal property. *Id.*, pp. 1-2. Generally, the asset limit for FAP benefits is \$15,000. *Id.*, p. 5. However, a lower asset limit applies after gambling or lottery winnings are reported.

When MDHHS learns of a FAP group receiving a single lottery or gambling winning of \$4,250 or more, it is to close the FAP case, giving timely notice for the negative action. BEM 403 (October 2022) p. 1. All FAP groups closed for receiving substantial lottery or gambling winnings remain ineligible until they meet allowable income and asset tests. *Id.* The next time the group reapplies, they will not be considered categorically eligible. *Id.* The group's eligibility must be determined under regular FAP rules. *Id.* It applies only to the first time the group is approved following the loss of eligibility for substantial lottery and gambling winnings. *Id.* This means senior/disabled/disabled veteran (SDV) groups must have countable assets of less than \$4,250 and all other groups must have assets less than \$2,750. *Id.* Also, the group must have net income of less than the monthly net income limit, see RFT 250. *Id.* This applies only to the first time the group is certified following the loss of eligibility for substantial lottery winnings. *Id.*

It was not disputed that Petitioner reported to MDHHS receipt of \$ [REDACTED] in lottery earnings on March 13, 2023. MDHHS responded on April 20, 2023, by sending notice of FAP benefit termination beginning June 2023, due to receipt of lottery winnings exceeding \$ [REDACTED]. Exhibit A, pp. 12-15. The closure of Petitioner's case due to lottery

¹ Clients may verbally request hearings to dispute FAP benefits (see BAM 600).

winnings required Petitioner to regain FAP eligibility subject to the requirements of BEM 403. Petitioner's age over [REDACTED] years rendered him to be a senior and his group to be SDV.² Under BEM 403, the asset limit to regain FAP eligibility for an SDV group following substantial lottery earnings is \$4,250.

MDHHS requested proof of Petitioner's earnings via Verification Checklist on June 14, 2023. Exhibit A, pp. 30-32. Petitioner timely returned to MDHHS various asset statements. Exhibit A, pp. 33-38. Based on Petitioner's statements, MDHHS correctly calculated that Petitioner's countable assets totaled \$[REDACTED]. Exhibit A, pp. 44-47. Because Petitioner's assets exceeded the \$4,250 asset limit for SDV groups following substantial lottery earnings, MDHHS properly denied Petitioner's FAP benefit application.

Petitioner submitted documentation indicating his income is less than his monthly expenses.³ Exhibit 1, pp. 1-2. Petitioner's submission suggested that an administrative law judge can override MDHHS policy. Though MDHHS performed an "override" in denying Petitioner's application, an administrative law judge does not have the authority to override MDHHS policy unless authorized. No known law, regulation, or policy authorizes the undersigned to override or overrule MDHHS's actions in the present case. Given the evidence, MDHHS properly denied Petitioner's FAP benefit application dated [REDACTED] 2023, due to excess assets following lottery earnings.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED], 2023, due to excess assets following lottery earnings. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

² Persons over the age of [REDACTED] qualify as seniors. BEM 550 (January 2022) p. 1.

³ Petitioner's listed expenses included \$925 for rent and \$275 for a vehicle.

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 :

Interested Parties

MDHHS-Genesee-UnionSt-Hearings
D. Sweeney
M. Holden
MOAHR
BSC2

Via-First Class Mail :

