



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 26, 2023
MOAHR Docket No.: 23-004952
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On August 14, 2023, Petitioner, [REDACTED] requested a hearing to dispute his Food Assistance Program (FAP) benefits closure. As a result, a hearing was scheduled to be held on September 20, 2023, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing with his spouse, [REDACTED] Respondent, Department of Health and Human Services (Department) had Valerie Foley, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 27-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's 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 June 30, 2023, Petitioner provided the Department with verification of income.
2. Petitioner has a household size of four.
3. Petitioner is disabled.
4. Petitioner receives gross pay of [REDACTED] from social security RSDI.

5. Petitioner's child, [REDACTED] receives gross pay of [REDACTED] from social security RSDI.
6. Petitioner's child, [REDACTED] receives gross pay of [REDACTED] from social security SSI and [REDACTED] from social security RSDI.
7. Petitioner's spouse receives gross pay of [REDACTED] from social security RSDI.
8. Petitioner's spouse also received income from employment at [REDACTED] [REDACTED] paid Petitioner's spouse biweekly. Petitioner's spouse received gross pay of [REDACTED] on June 9, 2023, and Petitioner's spouse received gross pay of [REDACTED] on June 23, 2023.
9. Petitioner does not pay rent or a mortgage.
10. Petitioner pays property taxes of \$2,000.00 per year.
11. Petitioner is responsible for paying for heating/cooling utilities.
12. The Department determined that Petitioner's net household income exceeded the limit, so the Department closed Petitioner's FAP benefits.
13. On August 1, 2023, the Department mailed a notice of case action to Petitioner to notify Petitioner that his FAP benefits were closing effective September 1, 2023.
14. Petitioner requested a hearing to dispute his FAP benefits closure.

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) 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 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 is disputing the Department's decision to close his FAP benefits. The Department closed Petitioner's FAP benefits because the Department determined that Petitioner's household income exceeded the income limit.

For a client to be eligible for FAP benefits, the client's household income must not exceed the applicable monthly income limit by family size. RFT 250 (October 1, 2022), p. 1. The applicable monthly income limit for a household with a senior, disabled, or veteran is the household's net income. *Id.* The net income limit for a household size of

four was \$2,313.00. *Id.* Since Petitioner had a household size of four, \$2,313.00 was the applicable net income limit for Petitioner's household.

To determine a client's countable income, the Department must use past income to prospect income for the future, unless changes are expected. BEM 505 (October 1, 2022), p. 6. In general, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* If income from the past 30 days does not appear to accurately reflect what is expected to be received in the benefit month, and fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, then the Department uses income from the past 60 or 90 days. *Id.*

Based on the evidence presented, Petitioner's spouse received total gross pay of [REDACTED] over two biweekly pay periods. This equals an average biweekly pay of [REDACTED]. The biweekly pay is multiplied by 2.15 to calculate a standard monthly amount. *Id.* at p. 8. Petitioner's spouse's average biweekly pay of [REDACTED] multiplied by 2.15 equals a standard monthly amount of [REDACTED]. Thus, Petitioner's spouse's countable gross income was [REDACTED] per month. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550 (April 1, 2023), p. 1. Petitioner's spouse's countable income after the earned income deduction was [REDACTED].

Petitioner's spouse's countable income of [REDACTED] plus total gross pay of [REDACTED] per month that the household received from social security equals a total monthly household income of [REDACTED]. Petitioner is eligible for a standard deduction of \$193.00 for a household size of four. RFT 255 (February 1, 2023), p. 1. Petitioner is not eligible for an excess shelter deduction because Petitioner's shelter expenses were less than 50% of Petitioner's adjusted gross income. Petitioner's countable net household income after all deduction's is [REDACTED] per month.

Petitioner's total net household income of [REDACTED] per month exceeded the net income limit for a household size of four because the income limit was \$2,313.00 per month, and Petitioner's net household income was greater than \$2,313.00 per month. Therefore, the Department properly determined that Petitioner's net household income exceeded the limit to be eligible for FAP benefits, and the Department properly closed Petitioner's FAP benefits.

Petitioner testified that his spouse's earned income has decreased because she does not work as many days, and she receives a lower rate of pay. If Petitioner's household income has changed, Petitioner may reapply for FAP benefits, and the Department will recalculate Petitioner's household income. The Department properly closed Petitioner's FAP benefits because Petitioner's household income exceeded the income limit at the time of the closure.

DECISION AND ORDER

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 act in accordance with its policies and the applicable law when it closed Petitioner's Food Assistance Program benefits.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties
BSC4
M Holden
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MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]