



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: September 28, 2023  
MOAHR Docket No.: 23-004960  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 September 20, 2023, via teleconference. [REDACTED] [REDACTED] Petitioner's wife, and household member, appeared at the hearing. Maia Elvine-Fair and Cynthia Powell 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 [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits (Exhibit A, p. 25).
2. On July 19, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proofs of employment wages (Exhibit A, p. 22). The VCL indicated that proofs were due by July 31, 2023 (Exhibit A, p. 22).
3. On August 16, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP application was denied, July 19, 2023, ongoing, for failure to return requested verifications and because the household's gross income exceeded the income limit (Exhibit A, pp. 11-13).

4. On August 18, 2023, Petitioner requested a hearing regarding the denial of his FAP application (Exhibit A, pp. 7-8).
5. On August 28, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that he was denied for FAP benefits from July 19, 2023, to July 31, 2023, and approved for FAP benefits beginning August 1, 2023 (Exhibit A, p. 3). The reason for the July denial was that the household's gross income exceeded the income limit for the program (Exhibit A, p. 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. 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, Petitioner was initially denied for failure to return the requested proofs regarding employment verification. However, MDHHS confirmed at the hearing that the verifications were received, and Petitioner was approved for FAP from August 1, 2023, ongoing, but denied from July 19, 2023, to July 31, 2023, due to excess income. This decision addresses MDHHS's determination regarding the FAP denial from July 19, 2023, to July 31, 2023, due to excess income.

To determine eligibility for FAP, MDHHS must consider all earned and unearned income available to the household. BEM 500 (April 2022), pp. 1-5. A group's FAP benefit rate is based on actual income and prospective income. BEM 505 (November 2021), p. 1. Prospective income is the best estimate of income expected to be received by the group during a specific month. *Id.* To determine a group's prospective income, MDHHS is required to seek input from the client whenever possible. *Id.* Each source of income is converted into a standard monthly amount. *Id.* Stable income refers to income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. *Id.* Fluctuating income is income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. *Id.*, p. 2. Contractual or single payment income is that is received in one month that is intended to cover more than one month. *Id.* Irregular income refers to income that is not received on a regular schedule or that is received unpredictably, such as a person self-employed doing snow removal. *Id.*

MDHHS converts stable and fluctuating income to a standard monthly amount by multiplying weekly income by 4.3, multiplying amounts received every two weeks by 2.15 or adding amounts received twice a month. BEM 505 (November 2021), p. 8. For irregular income, MDHHS determines the standard monthly amount by adding the amounts entered together and dividing by the number of months used. *Id.*, p. 9.

MDHHS alleged that Petitioner was over in the income limit for FAP in July 2023 based on Petitioner's earned income, which MDHHS budgeted as \$3,600.00 (Exhibit A, p. 11). The record shows that Petitioner receives biweekly pay in the amount of \$ [REDACTED] (Exhibit A, p. 17). MDHHS submitted paystubs showing that Petitioner received \$ [REDACTED] from his employer on June 19, 2023, and July 3, 2023 (Exhibit A, pp. 18-19). Based on this information, MDHHS was required to budget a standard, monthly amount for Petitioner's income by multiplying his biweekly pay by 2.15, which would equal \$ [REDACTED]. It is unclear from the record why MDHHS did not calculate a standard, monthly amount for Petitioner's income in July. Therefore, MDHHS failed to demonstrate that it properly budgeted Petitioner's income.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner was ineligible for FAP benefits from July 19 to July 31, 2023.

### **DECISION AND ORDER**

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

MDHHS 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. Redetermine Petitioner's eligibility for FAP benefits from July 19, 2023, to July 31, 2023.
2. Issue supplemental payments for any FAP benefits that Petitioner was eligible to receive but did not from July 19, 2023, to July 31, 2023; and
3. Notify Petitioner of its decision in writing.



LJ/nr

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**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**  
Trista Waishkey  
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22 Center Street  
Ypsilanti, MI 48198  
**MDHHS-Washtenaw-  
Hearings@michigan.gov**

**Interested Parties**  
Washtenaw County DHHS  
BSC4  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]