



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: October 12, 2023
MOAHR Docket No.: 23-005168
Agency No.: [REDACTED]
Petitioner: [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 October 4, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Ebony Cochran and Corletta Brown Hearing Facilitator. Department Exhibit 1, pp. 1-28 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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. On July 2, 2023, Petitioner received an SSI payment from social security in the amount of [REDACTED] for her daughter [REDACTED]
3. On June 29, 2023, Notice of Case Action was sent to Petitioner informing her that her FAP case was closing effective August 1, 2023, due to excess income.
4. On August 23, 2023, Petitioner requested hearing disputing the closure of her FAP case.

5. Petitioner testified at hearing that the [REDACTED] payment from Social Security was an error but that she requested a waiver and the waiver was granted and she was not required to repay the overpayment.

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.

Current SSA Issued SSI, SDA, CDC, and FAP Only

Bridges counts the gross amount of current SSA-issued SSI as unearned income. BEM 503

Retroactive SSA Issued SSI, All Programs

Retroactive SSI benefits may be paid as a one-time payment or in installments over several months. SSA determines how the retroactive benefits will be paid.

FIP, SDA, RCA, RMA, CDC, and FAP Only

Retroactive SSI benefits are considered assets whether paid as a one-time payment or as installment payments. An individual may receive a payment that includes a portion intended as current benefits as well as a portion intended as retroactive benefits. The portion intended as current benefits is income. BEM 503.

In this case, Petitioner received a payment from the Social Security Administration on July 2, 2023, in the amount of [REDACTED] on behalf of her daughter [REDACTED]. The SOLQ printout designates this payment as "regular daily payment (underpayment)". (Ex. 1, p.8). Petitioner testified that this payment was made in error but she requested a waiver and the waiver was granted and she was not required to pay back the money.

The Department's position is that the July 2, 2023, social security payment was countable and the payment put Petitioner over the income limit for the month in question and it was correct to close her case due to excess income. Department policy states broadly that current SSA-issued SSI is counted as unearned income. BEM 503. Since

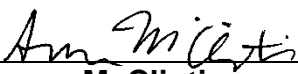
the SOLQ printout characterizes the payment as a “regular daily payment” then it was correct to count the payment as unearned income in the month received. Including that payment, Petitioner received [REDACTED] in unearned income. Following deductions, Petitioner had [REDACTED] in net income. The net income limit for a group size of 2 is \$1,526. Therefore, Petitioner was over the net income limit and the closure for excess income was proper and correct and consistent with Department policy.

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 acted 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 **AFFIRMED**.

AM/ml



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

Corlette Brown
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227

MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov

Interested Parties

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail:

Petitioner

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