



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 27, 2023
MOAHR Docket No.: 23-005214
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On [REDACTED] 2023, Petitioner, [REDACTED] requested a hearing to dispute her Food Assistance Program (FAP) application denial. As a result, a hearing was scheduled to be held on September 26, 2023, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department) had Lori Turner, Eligibility Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence. A 34-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's FAP application?

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] 2023, Petitioner applied for FAP benefits from the Department.
2. Petitioner has a household size of two, which includes Petitioner and her grandson. Petitioner reported during her application interview that her grandson buys and prepares his food separately from Petitioner.
3. Petitioner is a senior.

4. Petitioner receives gross pay of [REDACTED] per month from the Department of Veterans Affairs.
5. Petitioner is employed at [REDACTED]
6. On August 8, 2023, [REDACTED] reported to the Department that it pays Petitioner [REDACTED] per hour, and Petitioner works 20 hours per week. [REDACTED] also reported that it pays Petitioner biweekly.
7. The last two paychecks that Petitioner received from [REDACTED] before Petitioner applied for FAP benefits were a paycheck issued on July 28, 2023, in the gross amount of [REDACTED], and a paycheck issued on July 14, 2023, in the gross amount of [REDACTED]
8. Petitioner pays \$750.00 per month for rent, and Petitioner is responsible for paying for heating/cooling utilities.
9. The Department determined that Petitioner had a group size of one because Petitioner reported that her grandson buys and prepares his food separately from Petitioner, and the Department determined that Petitioner had a countable net income of [REDACTED] which exceeded the limit to be eligible for FAP benefits.
10. On August 24, 2023, the Department issued a notice of case action to Petitioner to notify her that her FAP application was denied because her income exceeded the limit to be eligible.
11. Petitioner requested a hearing to dispute the Department's decision.

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 deny her FAP application. The Department denied Petitioner's FAP application 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 one was \$1,133.00. *Id.* Petitioner had a household size of one because Petitioner reported that she bought and prepared her food separately from the only other person in her household. BEM 212 (January 1, 2022), p. 6. Since Petitioner had a household size of one, \$1,133.00 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 received total gross pay of [REDACTED] over the two most recent biweekly pay periods before she applied for FAP. 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 average biweekly pay of [REDACTED] multiplied by 2.15 equals a standard monthly amount of [REDACTED]. Thus, Petitioner'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 countable income after the earned income deduction was [REDACTED].

Petitioner's countable income of [REDACTED] plus the gross monthly pay of [REDACTED] that she received from the Department of Veterans Affairs equals a total monthly household income of [REDACTED]. Petitioner is eligible for a standard deduction of \$193.00 for a household size of one. RFT 255 (February 1, 2023), p. 1. Petitioner is eligible for an excess shelter deduction of \$155.00 based on her rent expense of [REDACTED] 750.00 per month and the maximum heat and utility standard. Petitioner's countable net household income after all deductions is [REDACTED] per month.

Petitioner's total net household income of [REDACTED] per month exceeded the net income limit for a household size of one because the income limit was \$1,133.00 per month, and Petitioner's net household income was greater than \$1,133.00 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 denied Petitioner's FAP application.

Petitioner asserted that her grandson does not buy and prepare food separately from her. Even if Petitioner's group size was two, Petitioner's household income still exceeded the income limit to be eligible. The income limit for a group size of two was \$1,526.00 per month. RFT 250 at p. 1. Petitioner's total net household income of [REDACTED] per month exceeded the net income limit for a household size of two because

the income limit was \$1,526.00 per month, and Petitioner's net household income was greater than \$1,526.00 per month.

Petitioner testified that her income has decreased since she applied for FAP benefits. 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 denied Petitioner's FAP application because Petitioner's household income exceeded the income limit at the time of the application.

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 denied Petitioner's Food Assistance Program application.

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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail:

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