



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

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Date Mailed: November 14, 2023
MOAHR Docket No.: 23-006856
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 2, 2023, Petitioner, ██████████ requested a hearing to dispute her Food Assistance Program (FAP) closure. As a result, a hearing was scheduled to be held on November 14, 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 Amber Gibson, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence. A 31-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?

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 September 6, 2023, Petitioner submitted a renewal form to the Department to renew her eligibility for FAP benefits.
2. Petitioner has a household size of three, which includes Petitioner, her spouse, and her adult child. Petitioner reported during her application interview that they all buy and prepare food together.
3. Petitioner is a senior.
4. Petitioner receives gross pay of ██████████ per month from social security RSDI.

5. Petitioner's spouse, [REDACTED] receives gross pay of [REDACTED] per month from social security RSDI.
6. Petitioner's adult son, [REDACTED] works at [REDACTED] [REDACTED] is paid biweekly, and he received the following wages:
 - a. On September 14, 2023, gross pay of [REDACTED]
 - b. On September 28, 2023, gross pay of [REDACTED]
7. Petitioner pays \$603.00 per month for a mortgage, and Petitioner is responsible for paying for heating/cooling utilities.
8. Neither Petitioner nor her spouse pay a Medicare Part B premium.
9. The Department determined that Petitioner had a group size of three, 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 October 23, 2023, the Department issued a notice of case action to Petitioner to notify her that her FAP was going to close effective October 1, 2023, 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 close her 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, 2023), 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 three was \$2,072.00. *Id.* Petitioner had a household size of three because Petitioner

reported that she lived with her spouse and her adult child, and she reported that they all buy and prepare food together. BEM 212 (January 1, 2022), p. 6. Since Petitioner had a household size of three, \$2,072.00 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, 2023), 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 adult child received total gross pay of [REDACTED] over the two most recent 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 adult child's average biweekly pay of [REDACTED] multiplied by 2.15 equals a standard monthly amount of [REDACTED]. Thus, Petitioner's adult child's countable gross income was [REDACTED]0 per month. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550 (April 1, 2023), p. 1. Petitioner's adult child's countable income after the earned income deduction was [REDACTED].

Petitioner's adult child's countable income of [REDACTED] plus the gross monthly pay of [REDACTED] that Petitioner and her spouse received from social security RSDI equals a total monthly household income of [REDACTED]. Petitioner is eligible for a standard deduction of \$198.00 for a household size of three. RFT 255 (October 1, 2023), p. 1. After the standard deduction, Petitioner's adjusted gross income was [REDACTED]. Petitioner is not eligible for an excess shelter deduction because Petitioner's allowable shelter expenses are less than 50% of her adjusted gross income. Thus, Petitioner's countable net household income after all deductions is [REDACTED] per month.

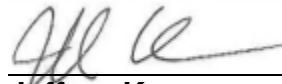
Petitioner's total net household income of [REDACTED] per month exceeded the net income limit for a household size of three because the income limit was \$2,072.00 per month, and Petitioner's net household income was greater than \$2,072.00 per month. Therefore, the Department properly determined that Petitioner's net household income exceeded the limit to be eligible for FAP benefits, and the Department properly closed Petitioner's FAP.

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
Amber Gibson
Ingham County DHHS
5303 South Cedar
Lansing, MI 48911
MDHHS-Ingham-Hearings@michigan.gov

Interested Parties

BSC2
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

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