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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]
[REDACTED], MI [REDACTED]

Date Mailed: December 19, 2023
MOAHR Docket No.: 23-007830
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on December 13, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shyla Coleman, hearings facilitator. [REDACTED] [REDACTED] of [REDACTED] [REDACTED] observed the hearing.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (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 an unspecified date in October 2023, Petitioner received \$8,000 in loan proceeds from friends and family. Petitioner did not sign any documents agreeing to the loan repayment. Petitioner also did not pledge any property or income to loan repayment.
2. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits and reported a household including no other persons. Petitioner additionally reported being under 60 years of age and not being disabled or a disabled veteran.

3. On November 15, 2022, MDHHS denied Petitioner's application for FAP benefits due to excess gross income.
4. On November 6, 2023, Petitioner requested a hearing to dispute the denial of FAP benefits. Petitioner also disputed Family Independence Program (FIP) and State Emergency Relief (SER) eligibility.
5. As of November 6, 2023, Petitioner had not applied for FIP or SER benefits from MDHHS.

CONCLUSIONS OF LAW

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers the FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. FIP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner requested a hearing, in part, to dispute FIP and SER benefits. Exhibit A, pp. 3-5. Petitioner testified she disputed FIP and SER because she needed help with various bills. MDHHS responded it took no negative action concerning FIP or SER because Petitioner neither received nor applied for FIP and/or SER benefits.

A hearing may be granted for any of the following circumstances: denial of an application and/or supplemental payments, reduction in the amount of program benefits or service, suspension or termination of program benefits or service, restrictions under which benefits or services are provided, delay of any action beyond standards of promptness, and/or the current level of benefits or denial of expedited service (for CDC or FAP). BAM 600 (March 2021) p. 5. Petitioner did not establish an action by MDHHS for which a hearing may be granted. Thus, Petitioner's hearing request is properly dismissed.¹

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

¹ During the hearing, Petitioner was advised she can apply for FIP and SDA.

Petitioner also requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2023. A Notice of Case Action dated October 26, 2023, stated that MDHHS denied Petitioner's application due to excess gross income. Exhibit A, pp. 8-11.

To be eligible for FAP benefits, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017) p. 1. An SDV group is one with a senior (a person over the age of 60 years), disabled individual, or disabled veteran. *Id.*

A traditionally categorically eligible FAP group is one whose members are all Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or Supplemental Security Income recipients (SSI). BEM 213 (January 2023) p. 1. Non-traditionally categorically eligible groups are categorically eligible based on Domestic Violence Prevention Services (DVPS), but an income and asset test are required. *Id.*, p. 2. Categorical FAP groups with three or more members that exceed the gross and/or 100 percent net income limit, but whose gross income is at or below 200% of the Federal Poverty Level (FPL) and who meet the asset limit and all other FAP eligibility requirements may be eligible for benefits as low as \$1 as determined by the Food Assistance Issuance Tables in RFT 260. *Id.*, p. 4.

Petitioner's application for benefits was not presented; thus, it is unknown whether Petitioner reported other household members or if she was SDV. The evidence suggested that Petitioner was neither senior, disabled, nor a disabled veteran. Also, the denial notice listed Petitioner as the only person denied FAP benefits thereby suggesting a benefit group of one person. Petitioner was not a FIP, SDA, or SSI recipient. As a one-person FAP group with no SDV members, the group's income must fall below 200% of the FPL to establish FAP eligibility.²

The only income received by Petitioner were donations from friends and family totaling \$8,000. Petitioner testified the donations were a loan intended to pay for a divorce attorney and other bills. Because she had to repay the money, Petitioner contended the money should not be countable.

A donation to an individual by family or friends is the individual's unearned income. BEM 503 (January 2023) p. 11. MDHHS counts the gross amount actually received, *Id.*

MDHHS is also to count loan proceeds as unearned income. *Id.*, p. 25. Loan proceeds are excluded if from a bona fide loan. This includes a loan by oral agreement if it is made into a bona fide loan. A bona fide loan means all the following are present:

- A loan contract or the lender's written statement clearly indicates the borrower's indebtedness.
- An acknowledgment from the borrower of the loan obligation.

² See BEM 212 for determining group size for FAP groups.

- The borrower's expressed intent to repay the loan by pledging real or individual property or anticipated income.

Petitioner's testimony acknowledged she did not sign a written statement of repayment. There was also no evidence that Petitioner pledged property or income to repay the loan. The evidence supported that Petitioner received \$8,000 in unearned income but not as part of a bona fine loan. Thus, the income was countable in determining FAP eligibility.

The monthly gross income limit for a one-person non-traditional categorically eligible FAP group is \$2,430.³ RFT 250 (October 2022) p. 1. Petitioner's benefit group's countable gross income of \$8,000 exceeded the gross income limit. Thus, MDHHS properly denied Petitioner's application for FAP benefits. As discussed during the hearing, Petitioner is encouraged to reapply if FAP benefits are still needed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to establish administrative hearing jurisdiction for disputes concerning FIP and SER benefits. Concerning FIP and SER benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application dated [REDACTED] 2023, due to excess gross income. Concerning FAP benefits, the actions of MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

³ The Notice of Case Action dated October 26, 2023, stated that Petitioner exceeded the gross income limit of \$1,580. Exhibit A, p. 18. A gross income limit of \$1,580 is 130% of the FPL and is applicable when a benefit group is not categorically eligible. Presumably, MDHHS determined Petitioner's FAP eligibility based on 200% of the FPL, and in compliance with policy, determined that the group was not categorically eligible because the group's income exceeded 200% of the FPL.

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
Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180
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[REDACTED]
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