



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: February 8, 2024
MOAHR Docket No.: 23-009822
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on January 29, 2024. Petitioner appeared and represented himself; he was also assisted by his daughter, [REDACTED] (SA). The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective January 1, 2024?

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 an ongoing recipient of FAP benefits. (Exhibit A, p. 1).
2. In October 2023, Petitioner was due for, and completed, a FAP redetermination. (Exhibit A, p. 1).
3. Petitioner's household is comprised of himself, his spouse, and two adult children, [REDACTED] (DA) and [REDACTED] (SA) and he reported this on his redetermination application.
4. Petitioner reported his income during the redetermination process. (Exhibit A, p. 1).

5. Petitioner also provided check stubs to the Department for another adult member of the group, SA, during the redetermination process. (Exhibit A, p. 1).
6. SA is [REDACTED] years old. (Exhibit A, p. 1).
7. On December 13, 2023, the Department processed Petitioner's redetermination and issued a Notice of Case Action (NOCA) closing Petitioner's FAP case for excess net income for a group size of three (3), effective January 1, 2024. (Exhibit A, pp. 6 – 7, 11).
8. The NOCA identified Petitioner, his spouse, and DA; it did not identify SA. (Exhibit A, p. 7).
9. On December 28, 2023, Petitioner requested a hearing to dispute the closure of his FAP case.

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.

Petitioner completed a redetermination application during October 2023, reported four (4) members of his household, and reported household earnings for himself. During the redetermination process, the Petitioner provided the Department with paystubs for himself and SA. The Department processed the redetermination application with all available information it had and closed Petitioner's FAP case for excess net income for a group size of three (3), effective January 1, 2024. Petitioner requested a hearing on December 28, 2023 to dispute closure of his FAP case.

Income limits for FAP benefits are set forth in RFT 250 (October 2023). The highest monthly net income limit for a group size of four (4) is \$2,500.00 and for a group size of three (3), it is \$2,072.00. The Notice of Case Action indicated that Petitioner's group excluded DA because she was over [REDACTED] years old and indicated that she did not purchase and prepare food with the household. Although the NOCA also indicated that DA was included in the group, at the hearing, the Department testified that SA, not DA, was included in Petitioner's FAP group. Although SA and Petitioner testified that SA did not purchase and prepare food together with the household, evidence at the hearing

was that SA was [REDACTED] years old before the FAP case closed December 1, 2023. Parents and their children under age 22 living with them are mandatory group members. BEM 212 (January 2022), p. 1. Therefore, the Department properly included SA in Petitioner's FAP group and excluded DA.

Because SA was a mandatory group member, her income, as well as Petitioner's was considered in determining Petitioner's FAP group's eligibility. In this case, Petitioner reported earnings of [REDACTED] per month for himself and provided check stubs to the Department for himself as well as check stubs reflecting SA's earnings of [REDACTED] per month (Exhibit B, pp. 1 – 5), for total household earnings of [REDACTED] per month.

The Department testified that it determined Petitioner's monthly income from paystubs provided by Petitioner, dated September 29, 2023, and SA's paystubs dated October 13, 2023 and October 27, 2023. (Exhibit B, pp. 1 – 5). For the purposes of FAP, the Department must convert gross income that is received more often than monthly into a standard monthly amount. The average of weekly amounts are multiplied by 4.3 and the average of bi-weekly amounts are multiplied by 2.15. BEM 505 (October 2023), pp. 8 – 9. In this case, SA was paid bi-weekly therefore the Department added her gross income from both checks provided and divided the total by two. The Department then multiplied that bi-weekly average by 2.15 and added Petitioner's and SA's income together to establish the gross monthly income for Petitioner's household. Based on the policy, the Department properly determined the household's gross monthly income.

Gross monthly income is subject to several deductions, depending on the attributes of the group and type of income it has. When the group's income is comprised of earned income, it is subject to a 20% deduction. BEM 556 (January 2023), p. 3. Additionally, all FAP groups receive a standard deduction based on group size. BEM 556, p. 4, see also RFT 255 (October 2023). Therefore, Petitioner's gross monthly income is reduced by \$1,006.10 for the earned income deduction and an additional \$198.00 for the standard deduction. No other deductions were determined to be applicable to Petitioner or members of his group. This equals an adjusted gross income (AGI) of [REDACTED]

Next, the Department determines if an excess shelter deduction is applicable. BEM 556, p. 4 – 6. Here, the Department recorded Petitioner's housing expense of \$330.93 and that Petitioner pays for heat and electric, therefore allotting the maximum utility standard available to FAP recipients, which is \$680.00. BEM 556, p. 5, see also RFT 255. The total of Petitioner's housing and utility expenses totaled \$1,010.93. Next the Department subtracts 50% of the Petitioner's AGI [REDACTED] and, as the resulting amount is a negative number, Petitioner was entitled to \$0.00 as an excess shelter deduction.

Once this calculation was completed, the Department properly determined that Petitioner's net monthly income was [REDACTED]. This net monthly income exceeds \$2,072.00 net income limit for a three (3) person FAP group.

Lastly, the Petitioner testified that SA was let go from her job in November 2023 and that SA reported her unemployed status to the Department. SA testified that she reported that information to the Department at the end of November or early December in her own Medicaid (MA) case. The Department testified that SA's MA application was completed on December 18, 2023 and that, in conjunction with that application, SA reported that she was no longer working for her employer and had last been paid on December 18, 2023.

Although SA reported her loss of employment to the Department in connection with her MA application, pursuant to policy, the Department is required to process reported changes that impact all benefit cases. BAM 220 (November 2023), p. 11. However, the Department's records indicate that SA did not report her unemployed status until December 18, 2023 which is after Petitioner's FAP case closed on December 1, 2023 and therefore the loss of income would not have affected the Department's FAP determination.

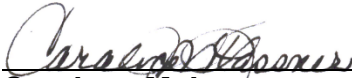
Therefore, based on the information the Department had when it processed Petitioner's FAP redetermination and the paystubs provided by the Petitioner to the Department, the Department's calculation of Petitioner's household net income was correct. Given that the calculation was correct, Petitioner's household income exceeded the net income limits for FAP assistance. Petitioner is advised that the household can reapply for FAP based on any changes in circumstances.

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 for excess net income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CML/ml



Caralyce M. Lassner
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
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Interested Parties
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N Denson-Sogbaka

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED] MI [REDACTED]