



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 13, 2024
MOAHR Docket No.: 23-009946
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 February 8, 2024. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistant Payments Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective December 1, 2023 due to excess gross 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 an ongoing recipient of FAP.
2. Petitioner's certified group size is six (6) and comprised of herself and the following minor children: [REDACTED] (AI), [REDACTED] (AU), [REDACTED] (GI), [REDACTED] (SO), and [REDACTED] (MD). (Exhibit A, pp. 65, 97, 103).
3. On October 4, 2023, the Department sent Petitioner a redetermination packet which was due on November 17, 2023. (Exhibit A, p. 64).
4. On November 29, 2023, Petitioner returned the completed redetermination application to the Department. (Exhibit A, pp. 64 – 72).

5. On December 5, 2023, Petitioner completed the redetermination interview. (Exhibit A, pp. 73 – 79).
6. Petitioner disclosed the following sources of income in her redetermination application and interview:
 - a) Petitioner's employment,
 - b) Adoption subsidy in the amount of \$1,664.58 monthly, and
 - c) Retirement, Survivors, and Disability Insurance (RSDI) from the Social Security Administration (SSA) for three (3) of the children in the amount of [REDACTED] each monthly.

Petitioner also disclosed that three (3) of the children are employed part time in addition to their schooling. (Exhibit A, pp. 66, 77).

7. On December 27, 2023, Petitioner submitted a request for hearing regarding her FAP benefits and issues related to the processing of her redetermination application. (Exhibit A, pp. 3 – 10).
8. On January 18, 2024, the Department processed Petitioner's redetermination application and verification documents, retrieved third party wage history for Petitioner's employment, calculated Petitioner's gross income budget, and issued a Notice of Case Action (NOCA) advising Petitioner her FAP case was closed due to excess gross income. (Exhibit A, pp. 80 – 84, 96, 100 – 103).
9. The hearing summary provided by the Department states Petitioner was notified of the Department's actions on January 12, 2024 and that the effective date of the change was December 1, 2023. (Exhibit A, p. 1).

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 on November 29, 2023 and interview on December 5, 2023. (Exhibit A, pp. 64 – 79). She requested a hearing because her redetermination application and documents were not processed in a timely manner. (Exhibit A, pp. 3 – 10 and pp. 11 – 63). A NOCA was issued prior to hearing, on January 18, 2024, closing Petitioner's FAP case due to excess gross income, effective December 1, 2023. (Exhibit A, pp. 100 – 103). While the original issue Petitioner sought to have addressed was related to the processing of her redetermination application, that issue no longer existed at the time of the hearing. However, Petitioner disputes the closure of her FAP case based on her household income and that is the issue addressed herein.

All FAP groups which do not contain a Senior, Disabled, or Disabled Veteran (S/D/V) group member, such as Petitioner's, must have income below the Gross Income Limit and the Net Income Limit and will be denied when the countable income exceeds the gross income limits for FAP benefits. BEM 550 (April 2023), p. 1 and BEM 213 (January 2023), p. 2. Gross income limits for FAP benefits are set by policy and based on the certified group size.

Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical gross income limit is 200% of the federal poverty level (FPL). RFT 250 (October 2023), Column D. If a FAP group has excess income and is not categorically eligible, it is subject to the FAP gross income limits limiting FAP eligibility to 130% of the FPL. RFT 250, Column A. It is undisputed that Petitioner's certified group size is six (6). The categorical income limit for a group of six is \$6,714.00 and the gross income limit is \$4,364.00.

In this case, documents received by the Department, and confirmed by Petitioner during the hearing, confirm Petitioner has the following gross income:

- a) Earnings from Petitioner's employment, (Exhibit A, pp. 80 – 84),
- b) Monthly adoption subsidy, (Exhibit A, p. 85),
- c) Monthly RSDI income for MD, (Exhibit A, pp. 86 – 88),
- d) Monthly RSDI income for SO, (Exhibit A, pp. 89 – 91), and
- e) Monthly RSDI income for GI. (Exhibit A, pp. 92 – 94).

Petitioner confirmed that she is still employed and her paycheck amounts are typically consistent.

The Department determined Petitioner's gross earned income amount using pay information received from The Work Number database, which receives income information directly from Petitioner's employer and is accessed using Petitioner's Social Security Number (see Exhibit A, pp. 80 – 84). Petitioner did not dispute the accuracy of the income information that the Department relied upon.

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. The Department testified that they used Petitioner's income information from November 19, 2023 and November 24, 2023, adding together the gross income from both paychecks and divided the total by two. The Department then multiplied that bi-weekly average by 2.15 and determined Petitioner's average gross monthly earnings to be [REDACTED] (Exhibit A, pp. 82, 96 – 97). This calculation is in accordance with policy.

Once the Department calculated Petitioner's average gross monthly earnings, it added those earnings, the adoption subsidy, and the three (3) RSDI payments Petitioner receives and determined the gross monthly income of Petitioner's household to be [REDACTED]. This sum is consistent with the evidence provided. This amount is in excess of the limit of [REDACTED] for a group of six (6) to be categorically eligible to receive FAP benefits, and therefore the group is subject to the gross income limit of \$4,364 for a 6-person FAP group.

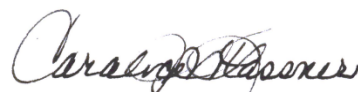
Because Petitioner's FAP group's income exceeds the gross income limit, the net income limit cannot establish FAP eligibility. RFT 250.

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 group due to excess gross 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
Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

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N Denson-Sogbaka

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Petitioner

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