



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



Date Mailed: February 22, 2024
MOAHR Docket No.: 24-000198
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 12, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's self-employment income, specifically his self-employment deductions, for purposes of his Food Assistance Program (FAP) case?

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 November 2023, Petitioner was due for a redetermination review for FAP benefits, which was due November 30, 2023. (Exhibit A, pp. 1, 13).
3. Petitioner completed the redetermination application, reporting household income from his self-employment as an Uber driver, and his son, [REDACTED] (MH), from employment at [REDACTED] (Exhibit A, p. 1).

4. During the redetermination application and/or interview, Petitioner provided self-employment income and expense amounts to the Department for the months of August 2023, September 2023, and October 2023. Specifically, Petitioner reported:
 - a. August 2023: Income of [REDACTED] expenses of \$1,579.00,
 - b. September 2023: Income of [REDACTED] expenses of \$1,867.00, and
 - c. October 2023: Income of [REDACTED] expenses of \$1,826.00.

(Exhibit A, p. 1).

5. Petitioner also provided verification of MH's income to the Department from November 2, 2023 through December 7, 2023. (Exhibit A, pp. 15 – 20).
6. On November 6, 2023, the Department issued a self-employment income and expense form (DHS-431) to Petitioner, which Petitioner completed and returned to the Department on or after November 13, 2023. The completed form reported Petitioner's income and expenses for the month of September 2023. (Exhibit A, pp. 23 – 24).
7. On the self-employment income and expense form (DHS-431), Petitioner reported his income and expenses for September 2023 as: Income of [REDACTED] and expenses of \$1,250.00 for transportation costs and \$1,867.00 for Uber fees. Petitioner did not provide receipts or other verification of his expenses. (Exhibit A, pp. 23 – 24).
8. On December 26, 2023, the Department processed Petitioner's redetermination application, including completing a net income budget and excess shelter deduction calculation. (Exhibit A, pp. 13 – 14, 22).
9. The Department issued a Notice of Case Action (NOCA) to Petitioner closing Petitioner's FAP case, effective December 1, 2023 ongoing, due to excess net income. (Exhibit A, pp. 8 – 9).
10. On January 11, 2024, Petitioner requested a hearing disputing the amount of his self-employment income, specifically his self-employment deductions, the Department considered when calculating Petitioner's countable income. (Exhibit A, p. 4).

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 disputes the amount in self-employment expense deductions the Department considered when calculating Petitioner's income from self-employment and asserts that, as a result, his counted self-employment income was higher than it should have been. (Exhibit A, p. 4). A NOCA was issued to Petitioner December 26, 2023 closing Petitioner's FAP case, effective December 1, 2023, due to excess net income. (Exhibit A, pp. 8 – 9).

The Department does not dispute Petitioner's status as a self-employed individual. To determine the amount of countable income Petitioner has from his self-employment, the Department starts with the Petitioner's total proceeds and then subtracts allowable expenses of producing the income. BEM 502 (October 2019), p. 3. Allowable expenses include a variety of expenses such as interest and principal on loans for equipment or income-producing property, insurance premiums for loans for equipment or income-producing property, taxes paid on income-producing property, transportation costs while on the job, and any other identifiable expense of producing the self-employment income (except as specifically excluded by policy such as net losses, income taxes, and depreciation), among other expenses. BEM 502, pp. 3 – 4. Allowable expenses (except MAGI related MA) are the higher of 25% of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502, p. 3. For purposes of the FAP program, self-employed individuals may verify expenses with a completed self-employment income and expense form (DHS-431) with receipts in support of the claimed expenses. BEM 502, p. 8.

In this case, at the time he completed his redetermination application, Petitioner provided self-employment income and expense amounts to the Department for the months of August 2023, September 2023, and October 2023. Specifically, Petitioner reported as follows:

- a. August 2023: Income of [REDACTED] expenses of \$1,579.00,
- b. September 2023: Income of [REDACTED] expenses of \$1,867.00, and
- c. October 2023: Income of [REDACTED] expenses of \$1,826.00.

(Exhibit A, p. 1).

Adding Petitioner's reported total receipts together and dividing by three (3) months, the average monthly total receipts reported by Petitioner is \$4,388.33.

Because policy requires the Department to verify expenses, on November 6, 2023, the Department sent Petitioner a self-employment income and expense form (DHS-431) to complete. The form specifically instructs individuals that if they wish to claim actual expenses, they must attach business receipts for those expenses. The form further discloses that the Department will either a) utilize the standard 25% deduction allowed by policy or b) may increase the expense deduction with receipts of actual expenses. (Exhibit A, pp. 23 – 24).

Petitioner returned his completed self-employment income and expense form to the Department on or after November 13, 2023. (Exhibit A, pp. 23 – 24). On it, he reported transportation costs of \$1,250.00 and Uber fees of \$1,867.00 as expenses for September 2023 (Exhibit A, p. 24). Petitioner's testimony confirmed the disclosed expenses and added that he has insurance, oil changes, repairs, and other expenses related to earning his self-employment income. And, while Petitioner testified that he provided proof of his expenses to the Department on January 31, 2024, he did not provide any receipts of his self-employment expenses to the Department prior to December 26, 2023, the date on which the Department issued the NOCA, effective December 1, 2023.

Considering that Petitioner did not return any receipts for business expenses to the Department with his completed self-employment income and expense form, Petitioner elected to accept the standard 25% deduction for business expenses allowed by policy. To that end, it is apparent from the budget completed by the Department that it deducted 25% of Petitioner's average monthly total receipts, in the amount of \$1,097.08, because the Department determined Petitioner's monthly self-employment income eligible for an earned income deduction to be [REDACTED] which is the remainder of [REDACTED] minus \$1,097.08. (Exhibit A, pp. 13 – 14). Therefore, based on the standard 25% deduction for business expenses permitted by policy when one does not provide receipts of actual business expenses, the Department properly determined Petitioner's monthly self-employment income eligible for an earned income deduction. (Exhibit A, pp. 13 – 14).

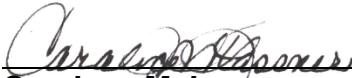
Because this was the only issue raised by Petitioner in his request for hearing and the hearing itself, it is not necessary to review the balance of the budget completed by the Department.

Therefore, while the Petitioner may reapply for FAP benefits and provide documentation to verify his self-employment expenses, 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 calculated Petitioner's self-employment income, specifically his self-employment deductions, for purposes of his Food Assistance Program (FAP) case on December 26, 2023, effective December 1, 2023.

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

