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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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: May 15, 2024
MOAHR Docket No.: 24-003752
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 May 6, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Krista Girardin, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective March 1, 2024 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 benefits for a household of one.
2. On February 26, 2024, Petitioner completed her redetermination application, due February 29, 2024, and submitted it to the Department through MIBridges. (Exhibit A, pp. 8 – 10).
3. On March 28, 2024, the Department received a request for hearing from Petitioner to dispute the closure of her FAP case. (Exhibit A, pp. 4 – 6).

4. On April 12, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) closing Petitioner's FAP case, effective March 1, 2024, due to excess gross income. (Exhibit B, pp. 6 – 7).

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 requested a hearing to dispute the closure of her FAP case due to excess gross income. Petitioner also testified at the hearing that she indicated on her request for hearing that she wanted her FAP benefits continued at the current amount until after her hearing but that she did not continue to receive any FAP benefits.

The Department must periodically review an individual's' eligibility for active programs. BAM 210 (January 2024), p. 1. As part of the process of redetermining eligibility for FAP benefits, the Department must determine if the client has income below the applicable gross and/or net income limits based on their group composition and size. BEM 213 (March 2024), BEM 212 (March 2024), BEM 550 (February 2024), RFT 250 (October 2023). The Department makes that determination by performing a budget calculation. BEM 505 (October 2023), p. 1. When calculating a FAP budget, the Department must consider all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1 – 5.

All FAP groups that are not categorically eligible must have income below the gross income limit and will be denied when the countable income exceeds the limit. BEM 550, p. 1; BEM 213, p. 2. Gross income limits for FAP benefits are set by policy and based on the certified group size. See RFT 250. However, FAP groups, whose members are not all participants in Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or receiving Supplemental Security Income (SSI), may be categorically eligible, based on enhanced authorization for Domestic Violence Prevention Services (DVPS), if their gross income is at or below 200% of the Federal Poverty Level (FPL). BEM 213, p. 1; BPG Glossary (February 2024), pp. 10 – 11, 22. 200% of the FPL, or the categorical income limit, for a group of one is \$2,430. RFT 250, Column D.

In this case, Petitioner was a FAP group of one and due for a redetermination for the FAP benefit period beginning March 1, 2024. She completed her redetermination application on February 26, 2024. (Exhibit A, pp. 8 – 10). On Petitioner's redetermination application, she reported new income of \$ [REDACTED] per month, new expenses for a mortgage or land contract in the amount of \$3,556 per month, and dependent care for a child or family member with a disability in the amount of \$2,000 per month. (Exhibit A, pp. 8 – 9). However, on April 8, 2024, Petitioner notified the Department that she does not pay a mortgage or land contract payment. (Exhibit B, p. 3, Entry 59). Petitioner testified that the new income is from being the home help provider for her adult sister and that the dependent care expenses she identified are for the care of that sister.

In processing Petitioner's redetermination application, the Department obtained a Consolidated Inquiry (CI)¹ report, which reflected that Petitioner received income as an adult home help provider on a monthly basis beginning on November 9, 2023, with the most recent payment having been issued on March 7, 2024 in the amount of \$ [REDACTED] (Exhibit A, p. 12). Petitioner testified that the income is for the care of her sister and disputed that the amount she receives as an adult home help provider is Petitioner's income.

Income means a payment received by an individual which is measured in money, and includes money an individual owns, even if not paid directly to that individual, such as income paid to a representative. BEM 500 (April 2022), p. 3. Income paid to an individual, acting as a representative for another, is not the representative's income. BEM 500, p. 8. However, an individual home help provider is a direct care worker who provides home help personal care services to the Department's client and receives payment for those services from Michigan Medicaid directly. BPG, pp. 33, 46 – 47, 52.² Because home help provider income is paid to the individual providing services, for the services rendered to the Department's client, it is earned income in the form of wages. Wages are the pay an individual receives from another organization. BEM 501 (January 2024), pp. 6 – 7. Wages are countable income unless it is specifically excluded under the applicable policy. BEM 500, p. 3. There is no exclusion for home help provider income. BEM 501, pp. 1 – 16. Therefore, Petitioner's income as a result of being her sister's adult home help provider is countable earned income of Petitioner.

Petitioner further disputes that she receives the amount of income reported on the CI, claiming she receives less than the amount reported by the Department. However, a review of the payment history between November 9, 2023 and March 7, 2024, establishes that for November 2023, Petitioner was paid \$ [REDACTED] and for each month after that Petitioner was paid a total of between \$ [REDACTED] and \$ [REDACTED] per month. (Exhibit A, p. 12). Petitioner did not offer any evidence in support of her testimony that she receives less than the amount reported on the CI.

¹ A Consolidated Inquiry is a multi-source report available to the Department containing information regarding various income sources and amounts payable to an individual.

² See also <https://www.michigan.gov/mdhhs/doing-business/providers/providers/other/homehelp/individual-providers/individual-providers>. Last accessed May 9, 2024.

It is undisputed that Petitioner's certified group size is one. The categorical income limit for a group of one \$2,430. RFT 250. Because Petitioner's gross countable earned income is \$ [REDACTED] per month, and this amount is in excess of the gross income limit of \$2,430 for a group of one, the Department properly determined that Petitioner exceeds the gross income limit for FAP benefits. (Exhibit B, pp. 6 – 7). And were Petitioner to have presented, or later obtained, evidence that the amount has been \$2,600, which was the amount she reported on her redetermination application, that amount is also in excess of the gross income limit.

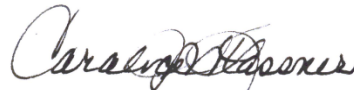
Notwithstanding the foregoing, with regard to Petitioner's testimony that she incurs a dependent care expense for the care of her sister, because Petitioner does not work, outside of the services she provides to her sister as a home help provider, and her sister is not a minor, or an adult member of Petitioner's FAP group who requires care to allow Petitioner to work, Petitioner would not be entitled to a deduction for such an expense. BEM 554 (February 2024), pp. 7 – 8.

Lastly, Petitioner indicated, on her request for hearing, that she wanted her FAP benefits to continue at the current amount until after her hearing but that she did not continue to receive any FAP benefits. When a timely request for hearing is received by the Department based on a negative action taken by the Department, the Department must reinstate program benefits to the level benefits were approved prior to the negative action. BAM 600 (February 2024), pp. 25 – 26. However, for FAP benefits this requirement does not apply if the benefit period expired or an original application or redetermination application has been denied. BAM 600, pp. 25 – 26. Therefore, because Petitioner's request for hearing is based on the Department's denial of her redetermination application and where her prior benefit period expired, the Department properly refrained from issuing FAP benefits to Petitioner based on her request for continued benefits pending the instant hearing.

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, effective March 1, 2024, due to excess gross income; and when it did not issue FAP benefits to Petitioner pending the instant hearing.

DECISION AND ORDER

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



Caralyce M. Lassner
Administrative Law Judge

CML/nr

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 :

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