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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: June 14, 2024
MOAHR Docket No.: 24-005544
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On May 1, 2024, Petitioner, [REDACTED], requested a hearing to dispute a Food Assistance Program (FAP) closure. As a result, a hearing was scheduled to be held on June 13, 2024, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented himself. Respondent, Department of Health and Human Services (Department) had Caroline Owczarzak, Eligibility Specialist, appear as its representative.

A 52-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's FAP benefits?

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 [REDACTED] 2024, Petitioner submitted a redetermination. Exhibit (Ex.) A, pp. 11-15.
2. During the April 11, 2024, redetermination interview, it was reported that Petitioner's son, [REDACTED] (MG), was a full-time student at [REDACTED] *Id.* p. 3.
3. On April 11, 2024, a verification checklist was mailed to Petitioner. Petitioner was required to submit the requested verifications by April 22, 2024. *Id.* pp. 26-28.
4. On April 12, 2024, verification of MG's loss of employment was received. *Id.* p. 29.

5. The Department reviewed Petitioner's case and determined that MG is not an eligible student for FAP benefits because MG was enrolled in college full-time but did not meet any of the additional criteria to be considered an eligible student.
6. On April 11, 2023, Petitioner began receiving [REDACTED] per week in workers' compensation benefits. *Id.* p. 3.
7. On May 1, 2024, Petitioner submitted verification of his workers' compensation benefits. *Id.* p. 2.
8. On May 1, 2024, a notice of case action was sent to Petitioner notifying Petitioner that Petitioner's FAP benefits would close effective May 1, 2024, because Petitioner was over the income limit for his group size. Ex. A, pp. 3, 38-41.
9. On May 1, 2024, Petitioner requested a hearing to dispute the FAP benefit closure. *Id.* pp. 5-9.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner is disputing Petitioner's FAP benefit closure. The Department closed Petitioner's FAP benefits because the Department determined that Petitioner's household income exceeded the income limit for a group size of 3. The Department determined that MG is an ineligible student and removed him from Petitioner's FAP group.

A full-time student is ineligible for FAP benefits unless the student meets one of the following criteria: receiving Family Independence Program (FIP) assistance; enrolled as a result of a Job Training Partnership Act (JTPA) program; enrolled as a result of a program under Section 236 of the Trade Readjustment Act of 1974; enrolled in a FAE&T or FAE&T plus and either part of a career and technical education program as defined under the Perkins Strengthening Career and Technical Education Act and a course of study that will lead to employment or the student is limited to remedial courses, basic adult education, literacy, or English as a second language; participating in an employment and training program for low-income households operated by state and local government where one or more components of such program is at least equivalent to an acceptable FAP employment and training program component such as

a program under the Carl D. Perkins Career and Technical Education Improvement Act of 2006; participating in another state or local government employment and training program; physically or mentally unfit for employment; employed for at least an average of 20 hours per week and paid for such employment; self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20; participating in an on-the-job training program; participating in a state or federally funded work study program; providing more than half of the physical care of a group member under the age of six, or providing more than half of the physical care of a group member age six through eleven if the local office has determined that adequate child care is unavailable to enable the student to participate in work or work study. BEM 245 (July 1, 2023), pp. 4-6.

At the time of the March 27, 2024, Redetermination, the evidence shows that MG was reported to have been attending [REDACTED] full-time and was not working an average of 20 hours per week. Ex. A., p 3. Further, no evidence was provided to show that MG met any of the other criteria listed above to be considered an eligible student for FAP purposes. Therefore, the Department determined that MG was an ineligible student for FAP purposes. Petitioner argued that MG was not attending [REDACTED] full-time. However, no evidence was submitted by Petitioner to prove that the Department improperly determined that Petitioner is not an eligible student for FAP purposes based on the information given to the Department at the time of redetermination.

For a client to be eligible for FAP benefits, the client's household income must not exceed the applicable monthly income limit by family size. RFT 250 (October 1, 2023), p. 1. The applicable monthly net income limit for a group size of 3 is \$2,072.00 *Id.*

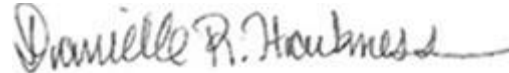
The Department uses countable income to determine eligibility and benefit levels. Income remaining after applying the policy in the income related items is called countable. For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. Workers' compensation payments are available under various federal and state laws to individuals with a job-related illness or injury and to survivors of a deceased worker. Payments might be made by a government agency, an insurance company or an employer. Count the gross payment as unearned income. BEM 503 (April 1, 2024), p. 43.

Based on the evidence presented, Petitioner receives a gross weekly benefit amount of \$[REDACTED] per week in workers' compensation payments. The weekly pay is multiplied by 4.3 to calculate a gross monthly income. Therefore, Petitioner's average gross monthly income is \$3,413.46 (\$[REDACTED] x 4.3). Petitioner also received the standard deduction of \$198.00. Thus, Petitioner's net income is \$3,215.00 (\$3,413.00 - \$198.00). Petitioner's total net income exceeded the net income limit for a household size of 3 because the income limit was \$2,072.00 per month, and Petitioner's net household income was greater than \$2,072.00 per month. Therefore, the Department properly determined that Petitioner's net household income exceeded the limit to be eligible for FAP benefits.

DECISION AND ORDER

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 properly closed Petitioner's FAP benefits effective May 1, 2024.

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



DH/pt

Danielle R. Harkness
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

