



GRETCHEN WHITMER
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: July 18, 2024
MOAHR Docket No.: 24-006481
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 July 8, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner Food Assistance Program (FAP) benefits for April 12, 2024 to April 30, 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. On [REDACTED] [REDACTED] 2024, Petitioner submitted an application for FAP and MSP to the Department through MiBridges. Petitioner requested FAP assistance for himself, his wife (Wife), and their [REDACTED] year old daughter (CM); and MSP for himself. On the application, Petitioner reported that he had employment income of \$[REDACTED] per week from [REDACTED] [REDACTED] (Employer) and self-employment income of \$[REDACTED] per month with self-employment expenses of \$360 per month. (Exhibit B, pp. 1 – 9).
2. Petitioner and Wife both receive Social Security benefits in the total amount of \$1,791 per month. (Exhibit B, p. 14).

3. On May 2, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) denying Petitioner FAP for the period of April 12, 2024 through April 30, 2024 due to excess net income and approving Petitioner for FAP for May 1, 2024 ongoing in the amount of \$23 per month for a certified group of two. (Exhibit B, pp. 17 – 24).
4. On May 28, 2024, the Department received a request for hearing from Petitioner regarding MA, SER, and FAP. (Exhibit A, p. 4).
5. On June 5, 2024, the Department issued a NOCA to Petitioner regarding FAP and increasing Petitioner's FAP benefit to \$283 per month effective June 1, 2024 ongoing for a certified group of two. (Exhibit A, pp. 29 – 33).

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).

Petitioner requested a hearing regarding closure of his Medicare Savings Plan (MSP) coverage, denial of SER applications he submitted to the Department for assistance with his electric, water/sewage, and heat/natural gas, and denial of FAP benefits for April 12, 2024 to April 30, 2024. (Exhibit A, pp. 2, 4). After the commencement of the hearing, Petitioner testified that his concerns regarding his MSP and SER were resolved prior to hearing and requested to withdraw his request for hearing concerning MSP and SER. The Department explained that Petitioner's MSP case was closed in one case and opened under another case number.

Petitioner's request for hearing regarding MSP and SER was withdrawn on the record and the Department had no objection. Therefore, Petitioner's request for hearing as to MSP and SER is dismissed. The hearing proceeded to address Petitioner's concerns regarding FAP.

FAP

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 Department's denial of his request for FAP and clarified at the hearing that his dispute was specifically for the denial of FAP from April 12 to April 30, 2024. The Department denied Petitioner FAP from April 12 to April

30, 2024 due to excess income and approved Petitioner for \$23 in monthly FAP for May 2024 ongoing, which increased to \$283 for June 2024 ongoing.

While Petitioner originally applied for FAP for himself, Wife, and CM, CM was excluded from the FAP group because she did not purchase and prepare food with Petitioner and Wife and Petitioner did not dispute that his certified FAP group was two and only included himself and Wife.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the Petitioner must be included. BEM 500 (April 2022), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 505 (October 2023), p. 1. Social Security income is unearned income and self-employment income is earned income. BEM 500, p. 4; BEM 502 (October 2019), p. 3; BEM 503 (April 2024), pp. 30, 35.

Petitioner's FAP budget for May, as shown on the May 2, 2024 NOCA, was reviewed. For purposes of FAP, countable income from Social Security is the gross amount of the monthly Social Security benefit. BEM 503, pp. 30, 35. In this case, Petitioner and his wife each receive income from Social Security and Petitioner testified that the total of that income is \$1,791 per month, which is consistent with the amount of unearned income the Department used to determine their eligibility for FAP on the May 2, 2024 NOCA. (Exhibit A, pp. 17 – 18; Exhibit B, p. 14). The Department properly budgeted the FAP group's unearned Social Security income.

On the May 2, 2024 NOCA, the Department budgeted \$[REDACTED] in self-employment income for Petitioner (Exhibit B, p. 18); however, it was unclear during the hearing how the Department determined the amount of self-employment income. Based on the evidence provided, Petitioner's total proceeds were \$1,200. Because there was no evidence that he verified his expenses, his allowable expenses were limited to \$300, resulting in total self-employment income of \$900. See BEM 502, p. 3, 8. Based on the evidence offered, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's self-employment income in the amount of \$1,467 for the May 2, 2024 NOCA.

The Department concluded that Petitioner was not eligible for any FAP for April 2024. Based on an application dated [REDACTED] [REDACTED] 2024, Petitioner is eligible for prorated FAP benefits for the period April 12 to April 30, 2024, based on ongoing benefits he is approved for, provided that the amount of the prorated benefits exceeds \$10. BAM 115 (January 2024), p. 26; BEM 213 (March 2024), p. 3. Although the Department concluded that Petitioner had excess income for April, it did not present any evidence showing that he had any income in excess of what the Department budgeted for May or that the prorated benefits for April were less than \$10. Accordingly, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner FAP benefits for the period of April 12 to April 30, 2024.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it when it calculated Petitioner's FAP eligibility from April 12, 2024 through May 31, 2024.


DECISION AND ORDER

Accordingly, Petitioner's requests for hearing on MSP and SER are **DISMISSED** and the Department's decision is **REVERSED** with respect to its denial of Petitioner's application for FAP for April 2024.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's eligibility for FAP benefits from April 12, 2024 through May 31, 2024;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, April 12, 2024 through May 31, 2024; and
3. Notify Petitioner of its decision in writing.

CML/nr



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

Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209

MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties

BSC4

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EQAD

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
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