



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 18, 2022
MOAHR Docket No.: 22-000494
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on March 16, 2022. The Petitioner appeared and represented herself. ██████████ appeared as a witness on Petitioner's behalf. The Department of Health and Human Services (MDHHS) was represented by Olivette Gordon, Family Independence Manager.

ISSUE

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case due to unreported lottery winnings?

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. On an unknown date in 2021, Petitioner won lottery winnings in the amounts of \$██████████, \$██████████, and \$██████████ (Exhibit A, p. 9).
3. Petitioner did not report the lottery winnings to MDHHS.
4. On January 5, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that her FAP was closed effective February 1, 2022 due to unreported lottery/gambling winnings of \$██████████ or more (Exhibit A, pp. 5-6).

5. On January 28, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP case due to unreported lottery winnings (Exhibit A, pp. 3-4).

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.

In this case, Petitioner requested a hearing regarding the closure of her FAP case due to unreported lottery winnings. Petitioner does not dispute that she received lottery winnings in the amount MDHHS identified and that she did not report any of the three lottery winnings to MDHHS. However, Petitioner would like MDHHS to consider that the money that she won was immediately used for necessary home repairs.

All FAP groups, no matter if they have an asset test, must report when they receive substantial lottery or gambling winnings within 10 days of the date the group receives the winnings. Substantial lottery or gambling winnings is currently \$3,750.00 for a single payment. When MDHHS learns of a FAP group receiving a single lottery or gambling winning of \$3,750.00 or more, they must close the FAP case, giving timely notice for the negative action. All FAP groups closed for receiving substantial lottery or gambling winnings remain ineligible until they meet allowable income and asset tests. BEM 403 (October 2021), p. 1; BAM 809 (October 2021), p. 2.

In this case, Petitioner confirmed that she won lottery winnings in the amounts of \$[REDACTED], \$[REDACTED], and \$[REDACTED]. Petitioner states that she won each of these amounts on separate dates but could not recall when. Petitioner confirmed that she did not report any of the winnings to MDHHS. MDHHS testified that they believed that Petitioner received all three winnings on October 14, 2021, so they added the amounts together to determine that she was over the threshold to report of \$3,750.00. Contrary to MDHHS's assertion on the record that it could add up the winnings, BAM 809 states that "[i]f the group has a single winning of \$3,750 or more, take appropriate action to close the case; clients must be given timely notice. Multiple winnings in the same day or other days are treated separately as single winnings." BAM 809 (January 2018), pp. 1-2. Petitioner still had a single lottery winning of \$[REDACTED] that she did not report to MDHHS. BEM 403 clearly states that MDHHS must close an individual's FAP case if lottery winnings over \$3,750.00 are unreported and does not give MDHHS the

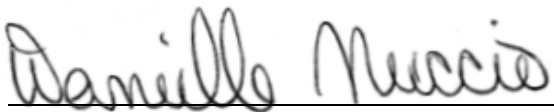
discretion to consider how the winnings were used by the individual. Therefore, MDHHS acted in accordance with policy when closing Petitioner's FAP case due to unreported lottery winnings.

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 MDHHS acted in accordance with Department policy when it closed Petitioner's FAP case due to unreported lottery winnings.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

DN/mp



Danielle Nuccio
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

Email Recipients:

MDHHS-Wayne-57-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

First-Class Mail Recipient:

[REDACTED]
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[REDACTED] MI [REDACTED]