



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: October 21, 2022
MOAHR Docket No.: 22-004291
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on October 19, 2022 via teleconference. Petitioner appeared and represented herself. Mary Strand, Family Independence Manager, and Mattison Brown, Assistance Payments Works, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly deny Petitioner's application for Food Assistance Program (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 ██████████ 2022, Petitioner applied for FAP benefits for a household of six (Exhibit A, p. 1).
2. On September 21, 2022, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, p. 1).
3. On September 23, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her application for FAP was denied due to excess income, effective September 1, 2022 ongoing (Exhibit A, p. 14).
4. On ██████████ 2022, Petitioner filed a Request for Hearing to dispute MDHHS' determination (Exhibit A, p. 3).

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. MDHHS 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, MDHHS denied Petitioner's application for FAP benefits due to excess income. Petitioner challenged MDHHS' determination and contended that her household was eligible for FAP benefits.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (November 2021), p. 1. MDHHS is required to prospect income using the best estimate of income expected to be received during the month and should seek input from the client to establish the estimate, whenever possible. BEM 505, p. 3.

The record shows that Petitioner had a FAP group of six, which included a senior/disabled/disabled veteran (SDV) member. MDHHS determined that Petitioner's countable earned and unearned income was \$██████████ per month (Exhibit A, p. 10). Petitioner disputed that amount. MDHHS testified that Petitioner was not eligible for FAP because the household's countable income exceeded Monthly Gross Income (130%) Limit for a household of six, which is outlined in Column A of RFT 250 (Exhibit A, p. 13).

However, Column A of RFT 250 applies only to FAP groups with no SDV member. RFT 250 (October 2021), p. 1; BEM 556 (October 2021), p. 3. For SDV groups, MDHHS is required to calculate the household's net income, which considers deductions for dependent care expenses, court ordered child support and arrearages paid to non-household members, and medical expenses for the SDV member that exceed \$35.00. BEM 554 (January 2022), p. 1. Additionally, MDHHS must determine whether the group is eligible for the excess shelter deduction. *Id.* MDHHS introduced a net income budget, which showed no deductions for dependent care expenses, medical expenses or child support expenses (Exhibit A, p. 10). However, MDHHS did not present any evidence showing how it calculated Petitioner's excess shelter deduction. Without this

information, MDHHS failed to satisfy its burden of showing that it properly determined that Petitioner was ineligible for FAP due to excess income.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

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

MDHHS 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. Reregister Petitioner's [REDACTED] 2022 FAP application;
2. Redetermine Petitioner's eligibility for FAP from August 30, 2022 ongoing;
3. Supplement Petitioner for any FAP benefits that she was entitled to receive but did not, from August 30, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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
Yaita Turner
Oakland County Pontiac-Woodward
Dist.
51111 Woodward Ave 5th Floor
Pontiac, MI 48342
**MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties
M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner
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