



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 19, 2023
MOAHR Docket No.: 23-004402
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 14, 2023. The Petitioner was self-represented and had [REDACTED] LLMSW appear as a support person and witness. The Department of Health and Human Services (Department) was represented by Kathy Burr, Assistance Payments Supervisor, and Chevval Barnes, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for being over the gross income limit?

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 FAP recipient with a group size of one.
2. On June [REDACTED] 2023, Petitioner submitted a change report indicating that she had returned to work on June [REDACTED] 2023 working 30 hours per week at \$[REDACTED] per hour with a weekly paycheck.
3. On July [REDACTED] 2023, the Department processed Petitioner's reported changes and issued a Notice of Case Action advising her that her FAP case was closing effective August 1, 2023 because her gross income exceeded the income limit. Her calculated gross income was \$[REDACTED] and the income limit was \$1,473.00.

4. On July [REDACTED] 2023, the Department received Petitioner's request for hearing disputing the closure of her FAP benefits indicating the Department's calculation was incorrect and failed to consider the temporary nature of her work and fluctuating hours.

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, the Department closed Petitioner's FAP case because her gross income exceeded the gross income limit. Pursuant to policy, a non-categorically eligible, non-Senior, Disabled, or Disabled Veteran (SDV) FAP group must have income below the gross and net income limits. BEM 550 (April 2023), p. 1. Petitioner is not categorically eligible because she is not a Family Independence Program (FIP), State Disability Assistance (SDA), or Supplemental Security Income (SSI) recipient. She is not an SDV. Therefore, she is not categorically eligible, and her gross income must fall below \$1,473.00 for her group size of one. RFT 250 (October 2022), p. 1.

In considering Petitioner's income, the Department is not required to verify Petitioner's start of income or increased income unless the income change report is unclear, inconsistent, or questionable. BEM 501 (July 2022), p. 10. Nothing about Petitioner's change report was unclear, inconsistent, or questionable; therefore, the Department was not required to verify Petitioner's reported changed. To calculate Petitioner's gross monthly income, she receives \$[REDACTED] per hour for 30 hours per week and receives paychecks on a weekly basis. Petitioner's weekly income is \$[REDACTED] and when multiplied by 4.3 to determine her standardized gross monthly income, her total gross income is \$[REDACTED] which is significantly less than the income listed on the Notice of Case Action as \$[REDACTED] BEM 505 (October 2022), p. 8. The evidence is unclear as to how the Department calculated \$[REDACTED]. However, regardless of the error or question presented by the Department's income calculation, Petitioner's gross monthly income of \$[REDACTED] is significantly more than the gross monthly income limit of \$1,473.00. Therefore, the Department properly determined that Petitioner was over the income limit and closed Petitioner's FAP benefits.

At the hearing, Petitioner argued that the Department failed to consider her fluctuating hours or temporary status in determining her FAP eligibility. However, Petitioner failed to

include this information on her change report and therefore it could not be considered by the Department in determining her FAP eligibility.

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 benefits because her income was greater than the gross income limit.

DECISION AND ORDER

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

AM/dm



Amanda M. T. Marler
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
Trista Waishkey
Washtenaw County DHHS
**MDHHS-Washtenaw-
Hearings@michigan.gov**

HoldenM

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BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]