



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR



Date Mailed: May 21, 2024
MOAHR Docket No.: 24-004358
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 May 16, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist. Mohamed Fahmy served as Arabic interpreter.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 benefits. Petitioner's household includes himself, his wife, and three children.
2. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed.
3. On or around February 8, 2024, the Department notified Petitioner that effective March 1, 2024, his FAP case would be closed because he failed to return requested verifications in connection with the redetermination.
4. On or around April 3, 2024, Petitioner requested a hearing disputing the closure of his FAP case.

5. The Department reviewed Petitioner's FAP case and determined that he had timely submitted the requested verifications. The Department processed Petitioner's redetermination.
6. On or around April 24, 2024, the Department sent Petitioner a Notice of Case Action advising him that effective March 1, 2024, his FAP case closed due to excess net income. (Exhibit A, pp. 15-19)

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 disputed the closure of his FAP case effective March 1, 2024. The Department representative testified that after processing Petitioner's FAP redetermination, and based on the information available to the Department, it was determined that Petitioner's household had excess net income and was no longer eligible to receive FAP benefits.

In order to be eligible for FAP benefits, FAP groups must have income below the applicable gross and/or net income limits based on their group size. Petitioner is subject to the net income test. BEM 213 (March 2024); BEM 212 (March 2024); BEM 550 (February 2024); RFT 250 (October 2023). The Department properly applied a net income limit for Petitioner's confirmed five person group size of [REDACTED] RFT 250, p. 1.

The Department presented a FAP EDG Net Income Results Budget and Budget Summary from the April 24, 2024, Notice of Case Action which were thoroughly reviewed to determine if the Department properly concluded that Petitioner's household had excess income. (Exhibit A, pp. 14-19).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. 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. Prospective income is income not yet received but expected. BEM 505 (October 2023), pp. 1-2. In prospecting income, the Department is

required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received weekly is converted to a standard amount by multiplying the weekly earnings by the 4.3 multiplier. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. These conversions take into account fluctuations due to the number of scheduled pays in a month. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2024), pp. 6-7.

The Department determined that Petitioner's household had gross earned income of [REDACTED] which consisted of Petitioner's weekly earnings and his wife's biweekly earnings. Specifically, the Department considered Petitioner's gross weekly pay of [REDACTED] from his employment with [REDACTED] which when converted to a standard monthly amount equals [REDACTED]. The Department representative testified that it relied on information obtained from the Work Number for Petitioner's wife's employment with [REDACTED] specifically considering pay received on December 15, 2023, in the amount of [REDACTED] and on December 29, 2023, in the amount of [REDACTED] which when converted to a standard amount results in income of [REDACTED]. Although Petitioner asserted that his net income after taxes is around [REDACTED] weekly, he confirmed that his gross earnings are [REDACTED] weekly. Petitioner also asserted that there were some weeks in which he was not working due to illness. It is noted that Petitioner could not recall the exact dates but did confirm that he did not notify the Department of his lack of pay for those weeks. Additionally, Petitioner testified that as of three to four weeks ago, his wife is no longer employed and no longer earning income. There was no evidence that Petitioner reported this loss of employment to the Department prior to the hearing. Petitioner confirmed that his wife was employed through March 2024 and there was no dispute that the income amounts relied upon by the Department were correct. Therefore, the Department properly considered Petitioner's gross weekly earnings of [REDACTED] and his wife's biweekly income which continued through March 2024. Upon review, the Department properly determined that Petitioner's household had gross earned income of [REDACTED].

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group does not include a senior/disabled/veteran (SDV) member. BEM 550 (April 2023), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2024), p. 1; BEM 556 (January 2023), p. 1-8.

In this case, the Department properly applied a 20% earned income deduction of \$1,154 to Petitioner's gross income. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for dependent care or child support expenses. See BEM 554. The Department properly applied a standard deduction of \$244 which was based on Petitioner's confirmed group size of five. RFT 255 (October 2023), p. 1. With respect to the calculation of the excess shelter deduction, the Department properly considered Petitioner's confirmed housing expenses of \$1,100 and applied the \$680 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. BEM 554, pp. 13-17.


After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Because Petitioner's net income of [REDACTED] is greater than the [REDACTED] net income limit based on his five-person household group size, the Department properly closed Petitioner's FAP case effective March 1, 2024. Petitioner is advised that he is entitled to submit a new application for FAP benefits and his eligibility will be determined based on the circumstances present at the time of application.

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 case.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
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

Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228

MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]