



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]
[REDACTED], MI [REDACTED]

Date Mailed: August 1, 2024
MOAHR Docket No.: 24-007278
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 24, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Taleaka Jones, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits effective [REDACTED] [REDACTED] 2024 ongoing?

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, the Department received an application for FAP benefits from Petitioner for herself and her three minor children. Petitioner reported the household's sole source of income was from Petitioner's employment with Boulevard Temple (Employer) of 68 hours bi-weekly. Petitioner reported expenses of \$950 per month for rent, plus heat and utilities. (Exhibit A, pp. 23 – 30).
2. On May 17, 2024, the Department received paystubs from Petitioner. The paystubs reported bi-weekly gross earnings of:
 - a. May 3, 2024, \$ [REDACTED]
 - b. May 17, 2024, \$ [REDACTED] and

- c. May 31, 2024, \$ [REDACTED]
- (Exhibit A, pp. 12 – 13, 15).
3. On June 11, 2024, the Department interviewed Petitioner and confirmed the source of household income was from Petitioner's work for Employer and that Petitioner worked 60 – 70 hours bi-weekly for \$22 per hour. Petitioner reported expenses of housing, water and phone utilities, and \$600 monthly for dependent care. (Exhibit A, pp. 16 – 22).
 4. On June 12, 2024, the Department received verification of Petitioner's dependent care expense in the form of a letter from Petitioner's provider attesting that she is paid \$300 bi-weekly to care for Petitioner's children.
 5. On June 12, 2024, the Department determined Petitioner was ineligible for FAP due to excess income. (Exhibit A, p. 7, Line 207; see also Exhibit A, pp. 9 – 11).
 6. On June 17, 2024, the Department verbally informed Petitioner she was denied FAP due to excess income. (Exhibit A, p. 7, Line 208).
 7. On June 21, 2024, the Department received a request for hearing from Petitioner disputing the denial of her FAP application.

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.

Petitioner requested a hearing to dispute the denial of her application for FAP. The Department denied Petitioner's application due to excess net income.

To determine whether the Department properly determined Petitioner's FAP net income eligibility, all countable earned and unearned income available to the Petitioner must be considered. 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. Wages from employment are earned income. BEM 501 (January 2024), pp. 6 – 7.

In calculating earned income for FAP purposes, the Department uses actual income for the processing month but must prospect income for future months. BEM 505, pp. 1, 6. Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month. BEM 505, pp. 1, 6. To prospect income, the Department considers the past 30 days of income, or 60 to 90 days if they more accurately reflect ongoing income. BEM 505, pp. 6 – 7. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of bi-weekly amounts is multiplied by 2.15. BEM 505, pp. 8 – 9.

In this case, Petitioner applied for FAP benefits for herself and her three children on May 17, 2024. (Exhibit A, pp. 23 – 30). The evidence established that in May 2024, Petitioner received three paychecks reflecting gross pay as follows:

May 3, 2024, \$ [REDACTED]
May 17, 2024, \$ [REDACTED] and
May 31, 2024, \$ [REDACTED]

and the Department testified it received those paystubs prior to Petitioner's interview on June 11, 2024. (Exhibit A, pp. 12 – 13, 15).

The Department testified that it projected Petitioner's earned income from her earnings from April 18, 2024 to May 17, 2024 because those were the 30 days prior to her application date. (Exhibit A, p. 1). Here, in connection with its conclusion that Petitioner has excess net income, the Department presented a net income budget for June 2024 ongoing that showed gross monthly earned income for Petitioner of \$ [REDACTED] for the benefit period of June 2024, which the Department explained was based on the May 3 and May 17, 2024 paystubs. (Exhibit A, p. 9). A review of this pay converted to a standard monthly amount does not support the Department's gross income calculation. Therefore, the Department has failed to satisfy its burden of showing that it calculated Petitioner's gross income in accordance with policy.

Additionally, the Department testified that it received verification of Petitioner's dependent care expense in the form of a letter from Petitioner's provider attesting that Petitioner pays her \$300 bi-weekly to care for Petitioner's children. The budget introduced by the Department reflects that it only budgeted \$300 per month for Petitioner's dependent care expenses. However, the Department is required to calculate a dependent care deduction by multiplying biweekly dependent care expenses by 2.15. BEM 554, pp. 3-4. Therefore, Petitioner's day care expenses should be \$645 ($\300×2.15). (Exhibit A, p. 9); BEM 554 (February 2024), p. 8. The Department was unable to explain why it only budgeted \$300 per month. Therefore, the Department did not act in accordance with Department policy when it budgeted Petitioner's dependent care expense.

It is noted that the Department was unable to confirm that a Notice of Case Action had been issued to Petitioner relative to her [REDACTED] [REDACTED] 2024 FAP application. The Department must send a Notice of Case Action to program applicants upon certification of the client's eligibility for the applied programs unless specifically excepted pursuant to policy. BAM 220 (November 2023), p. 2. There was no evidence that any such exception existed in this case (BAM 220, p. 5), and the Department should have sent Petitioner a Notice of Case Action.

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 determined Petitioner was ineligible for FAP benefits due to excess net income for June 2024 ongoing.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with respect to denial of FAP benefits for Petitioner for June 2024 ongoing.

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 for the period of May 17, 2024 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from May 17, 2024 ongoing; 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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]