



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], MI [REDACTED]

Date Mailed: July 31, 2024
MOAHR Docket No.: 24-007330
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 25, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective May 1, 2024 due to excess net income?

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 for a certified group of four, comprised of herself and her three children, [REDACTED] (EW), [REDACTED] (JA), and [REDACTED] (JM).
2. On March 18, 2024, the Department received a completed FAP renewal application from Petitioner. (Exhibit A, pp. 8 – 11).
3. Petitioner's household income was from her employment with Delaware North (Employer), child support for JA and JM, and Supplemental Security Income (SSI) of \$943 per month and State SSI Payment (SSP) of \$14 per month for JA. (Exhibit A, pp. 1, 9).

4. On April 30, 2024, the Department obtained Petitioner's earned income history with Employer from the Work Number through Equifax. (Exhibit A, pp. 18 – 19).
5. The Department obtained current child support payment information through a Consolidated Income Inquiry (CI) and SSI and SSP income information through a State Online Query (SOLQ). (Exhibit A, pp. 1, 21 – 24).
6. On April 30, 2024, the Department sent Petitioner a Notice of Case Action (NOCA), closing Petitioner's FAP case due to excess net income effective May 1, 2024. (Exhibit A, pp. 27 – 35).
7. On May 3, 2024, the Department received a request for hearing from Petitioner, disputing the closure of her FAP case. (Exhibit A, pp. 3 – 6).
8. On May 29, 2024, Petitioner submitted a new application for FAP benefits and was approved for FAP benefits effective May 29, 2024 ongoing.

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 closure of her FAP case from May 1, 2024 to May 28, 2024. The Department initially closed Petitioner's FAP due to excess net income effective May 1, 2024. Petitioner reapplied for FAP benefits on May 29, 2024 and has been approved for benefits effective May 29, 2024 ongoing, which she did not dispute.

The Department must periodically review an individuals' eligibility for active programs. BAM 210 (January 2024), p. 1. As part of the process of redetermining eligibility for FAP benefits, the Department must determine if the client has income below the applicable gross and/or net income limits based on their group size. BEM 213 (March 2024), BEM 212 (March 2024), BEM 550 (February 2024), RFT 250 (October 2023).

To determine whether the Department properly calculated Petitioner's income for purposes of FAP, all countable earned and unearned income available to the Petitioner must be included. 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. For purposes of FAP, child support and SSI and SSP income are unearned income, and the Department must count the gross amounts. BEM 503 (April 2024), pp. 6 – 9, 35 – 37.

In this case, the FAP net income budget presented by the Department showed \$ [REDACTED] in unearned income. The Department testified that it obtained a CI report of Petitioner's recent child support income for JA and JM which reflected that Petitioner received \$80.65 in January 2024, \$127.11 in February 2024, and \$127.11 in March 2024 for JA, and \$66.89 in January 2024, \$103.79 in February 2024, and \$103.78 in March 2024 for JM. (Exhibit A, pp. 23 – 24). The Department explained that it added the total of the three months together and divided by three to determine Petitioner's average monthly unearned child support income of \$203. (Exhibit A, p. 1); BEM 505, p. 4. The Department's calculation of child support income was in accordance with policy. The Department also testified that JA receives \$943 SSI and \$14 SSP monthly income and that it included those amounts in Petitioner's unearned income. (Exhibit A, p. 1). Petitioner did not dispute the amounts of her child support or SSI and SSP income for JA and JM. The Department introduced a budget reflecting that it included \$1,159 in total unearned income for Petitioner's household. (Exhibit A, pp. 25 – 26). A review of the evidence establishes that the Department's calculation of Petitioner's unearned income was correct.

Prospective earned 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, 3 – 4, 6. The Department must prospect an individual's earned income if income is received on a regular schedule but varies from check to check. BEM 505, pp. 2 – 4. 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 weekly amounts is multiplied by 4.3. BEM 505, pp. 8 – 9.

The FAP budget also showed earned monthly income of \$ [REDACTED]. The Department testified that Petitioner just started her current job and is paid weekly by Employer and that to calculate Petitioner's income, it used Petitioner's gross earnings of \$ [REDACTED] on April 12, 2024, \$ [REDACTED] on April 19, 2024, and \$ [REDACTED] on April 26, 2024 to prospect Petitioner's earned income. (Exhibit A, p. 1). The weekly amounts used by the Department total \$2,424.65. Dividing that amount by three weeks equals \$ [REDACTED]. Multiplying that by 4.3 equals \$ [REDACTED]. However, the Department budgeted \$ [REDACTED] in unearned income for Petitioner. (Exhibit A, p. 25). Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's earned income was \$ [REDACTED] per month.

Petitioner's net income budget is considered here based on unearned income of \$1,159 and the corrected earned income of \$ [REDACTED]. Once countable income is calculated, the Department must determine which deductions are available to the Petitioner. Specific

and limited deductions are permitted, depending on the source of countable income and the group's composition. Because JA is disabled, Petitioner's FAP group is considered a senior/disabled/veteran (SDV) household. BEM 550, p. 1. Households with SDV members and earned and unearned income may be eligible for the following deductions:

- A 20% earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (January 2024) p. 1; BEM 556 (January 2023) pp. 3 – 6.

First, Petitioner's group has corrected gross earned income totaling \$ [REDACTED] (dropping cents) and therefore is entitled to 20% reduction of the earned income amount. BEM 550, p. 1. This results in a deduction of \$695.

Next, all groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Groups of four receive a standard deduction of \$208. RFT 255 (October 2023). The Department properly deducted \$208 from Petitioner's countable income, as shown on the budget. (Exhibit A, p. 25).

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. Petitioner did not report any medical expenses for JA, who as an SSI recipient is an SDV member of the household, and the Department properly did not include a deduction for medical expenses. (Exhibit A, pp. 9, 25).

Petitioner also did not report any dependent care expenses or court ordered child support expenses, and therefore, no deduction for either of those expenses are reflected on the budget. (Exhibit A, pp. 9, 25).

Next, the Department determines any excess shelter expense deduction. To start, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting the earned income deduction, standard deduction, dependent care expenses, medical expenses for SDV members, and court ordered child support payments made by a member of the group from the countable income. Based on the correct calculation of Petitioner's earned income of \$ [REDACTED] and \$ [REDACTED] of unearned income, Petitioner's gross income was \$ [REDACTED]. Once the earned income deduction of \$695 and standard deduction of \$208, the only deductions Petitioner is eligible for are applied, Petitioner's AGI is \$3,731.

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. Petitioner reported a housing expense of \$1,250 per month and that she pays for heat and other utilities. (Exhibit A, pp. 1, 9). When a FAP group has heating and other utility expenses, separate from the mortgage payment, it is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction, which is the highest amount available to FAP groups who pay utilities. BEM 554, p. 17. The h/u standard amount is \$680.00 (RFT 255) and the Department properly budgeted Petitioner's housing expense and used the h/u standard amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 29).

Once Petitioner's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount and then subtract 50% of Petitioner's AGI from the total shelter amount. BEM 556 (May 2024), pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly housing of \$1,250 and the h/u standard of \$680 was \$1,930. (Exhibit A, p. 29). When 50% of Petitioner's corrected \$3,731 AGI, in the amount of \$1,865, is subtracted from the total shelter amount of \$1,930, Petitioner's excess shelter deduction was \$64. And when \$64 is subtracted from Petitioner's AGI of \$3,731, Petitioner's net monthly income, for purposes of FAP, was \$3,666.

Based on Petitioner's four person FAP group size and net income of \$3,666, Petitioner had excess net income and was ineligible for benefits. RFT 260 (October 2023), p. 51; see also RFT 250 (October 2023). Therefore, while the Department did not properly calculate Petitioner's earned income, its miscalculation did not result in an incorrect conclusion and the Department did properly determine Petitioner had excess net income for purposes of FAP.

The Department testified, and Petitioner confirmed, that Petitioner reapplied for FAP benefits on May 29, 2024 and was approved for benefits effective on that date due to changes in Petitioner's 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 the Department acted in accordance with Department policy when it closed Petitioner's FAP case effective May 1, 2024 for net excess income.

DECISION AND ORDER

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



Caralyce M. Lassner
Administrative Law Judge

CML/nr

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 :

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Interested Parties

BSC4

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