



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 8, 2024
MOAHR Docket No.: 24-007420
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 July 29, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application due to excess 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. On [REDACTED] [REDACTED] 2024, Petitioner completed an assistance application requesting FAP benefits for herself and her three children. (Exhibit A, pp. 5-12). On this application, Petitioner reported employment with [REDACTED] [REDACTED] [REDACTED] (Employer 1) and [REDACTED] [REDACTED] (Employer 2). (Exhibit A, p. 9). Petitioner also noted additional income from one household member in the amount of \$[REDACTED] every two weeks. (Exhibit A, p. 10). Petitioner provided clarification regarding her daughter's employment status with [REDACTED] [REDACTED] (Employer 3) and noted that "[daughter] doesn't work the same hours as before, she is contingent, [and] she only works 1 day a week." (Exhibit A, p. 11).

Petitioner also noted that she has received more than \$20 in the Home Heating Credit (HHC) within 12 months of the application. (Exhibit A, p. 11).

2. On June 12, 2024, the Department sent a Notice of Case Action (NOCA) to Petitioner approving FAP benefits for June 2024 in the amount of \$32 for a household group size of four. The NOCA further noted that Petitioner and her household were denied FAP benefits from May 7, 2024 through May 31, 2024 and July 1, 2024 ongoing due to excess income. (Exhibit A, pp. 16-20).
3. On June 20, 2024, Petitioner made a verbal request for hearing with respect to the Department's action concerning her FAP case. (Exhibit A, p. 1).

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 FAP application. Following review of Petitioner's household income, although the Department found Petitioner eligible for \$32 in FAP for June 2024, it concluded that her household income was in excess of the income limit for FAP benefits for May 2024 and July 2024 ongoing. The net income limit for Petitioner's four-person FAP group is \$2,500. RFT 250 (October 2023), p. 1.

In establishing Petitioner's net income, the Department presented a net income budget showing the information it used to calculate Petitioner's net income eligibility. All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. 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 biweekly is converted to a standard amount

by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. 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.

Here, the net income budget that showed gross earned income of \$ [REDACTED] which the Department testified was based on the submitted paystubs as follows:

Employer 1

Pay Date	Gross Pay Amount w/ tips
June 2, 2024	\$ [REDACTED]
June 16, 2024	\$ [REDACTED]
June 30, 2024	\$ [REDACTED]

Employer 2

Pay Date	Gross Pay Amount
May 3, 2024	\$ [REDACTED]
May 17, 2024	\$ [REDACTED]
May 31, 2024	\$ [REDACTED]

Additionally, Petitioner's daughter is employed with Employer 3 on a contingent basis with work hours that appear to vary based on the Work Number submitted by the Department. (Exhibit B, pp. 1-4). The Department testified that it used the following pay information on the Work Number:

Employer 3

Pay Date	Gross Pay Amount
May 10, 2024	\$ [REDACTED]
May 24, 2024	\$ [REDACTED]

The Department provided a FAP budget which was reviewed on the record. (Exhibit A, pp. 23-24). The provided budget indicated gross earned income amount of \$ [REDACTED] and unearned income in the amount of \$ [REDACTED]. Based on the provided paystubs and Work Number information, Petitioner's household income is \$ [REDACTED], not \$ [REDACTED]. Further, the Department did not provide any information regarding the \$ [REDACTED] unearned income that was included on Petitioner's budget or what this amount was based on. Because the Department could not establish that it properly calculated Petitioner's household's income, the Department failed to satisfy its burden that it acted in accordance with policy when it determined Petitioner was not eligible for FAP benefits 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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner was not eligible for FAP due to excess income.

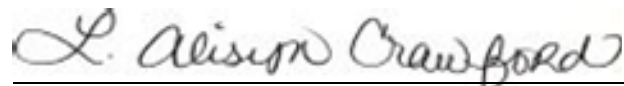
DECISION AND ORDER

Accordingly, the Department's 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] 2024 application for FAP;
2. Redetermine Petitioner's and her household's eligibility for FAP, and if eligible, issue supplemental payments for any FAP benefits that she was eligible to receive, but did not; and
3. Notify Petitioner of its decision in writing.

LC/nr



L. Alisyn Crawford
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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
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Interested Parties
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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
MI [REDACTED]