



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 12, 2024
MOAHR Docket No.: 24-007545
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 August 1, 2024. Petitioner was present at the hearing and was represented by her Authorized Hearing Representative (AHR) [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Kimberly Owens, Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits for March 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, Petitioner submitted an assistance application to the Department for FAP benefits for herself and two minor children. (Exhibit A, pp. 17-27).
2. Petitioner is [REDACTED] years old and reported that she was homeless, unemployed, and had no additional income for her household. (Exhibit A, p. 22).
3. On February 5, 2024, the Department completed a Consolidated Income Inquiry search for Petitioner and the summary indicated that Petitioner received child

support payments in the amount of \$ [REDACTED] monthly for each of her minor children. (Exhibit A, p. 32).

4. On February 5, 2024, the Department sent a Verification Checklist (VCL) to Petitioner requesting by February 15, 2024 the last 30 days of check stubs or earning statements showing her wages from [REDACTED] [REDACTED] (Employer). (Exhibit A, pp. 33-35).
5. On February 15, 2024, Petitioner submitted check stubs from Employer showing the following biweekly income:

Check Date	Check Amount
January 26, 2024	\$ [REDACTED]
February 9, 2024	\$ [REDACTED]

6. On February 26, 2024, the Department sent a Notice of Case Action (NOCA) to Petitioner informing her that from January 30, 2024 to January 31, 2024 she was approved for FAP benefits in the amount of \$16 for a household size of three and from February 1, 2024 to February 29, 2024 in the amount of \$73. (Exhibit A, pp. 45-51). The Notice further noted that effective March 1, 2024 Petitioner was not eligible for any FAP benefit amount due to excess income.
7. On May 23, 2024, the Department received a request for hearing from Petitioner disputing the Department's actions with respect to her FAP case. (Exhibit A, pp. 3-15).

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.

During the hearing and in her request for hearing, Petitioner contended that the Department acted in violation of her rights when it denied her FAP benefits starting in March 2024 ongoing. (Exhibit A, pp. 3-15). Citing court cases and the Supremacy Clause of the United States Constitution, Petitioner asserted that her rights were violated when the Department requested information regarding her employment and

income. Petitioner main contention concerned how the Department defined “income” for the purposes of FAP eligibility. Petitioner described the Department’s requests and determinations as “unwarranted” and eluded that wages received from Employer were not considered income.

Federal regulations concerning FAP at 7 CFR 271, Part 273 provide processing requirements and standards for State agencies to apply when making eligibility and budgeting determinations for FAP. 7 CFR 273.9(b) expressly defines income to include all wages and salaries of an employee and child support payments made directly to the household from nonhousehold members. 7 CFR 273.9(b)(1)(i) and (2)(iii). Federal regulations further provide that households without disabled or elderly members must meet both a gross and net income eligibility standard. 7 CFR 273.9(a). Therefore, Petitioner’s contention that her employment income and child support income should not have been considered in determining her FAP eligibility is without merit and is rejected.¹

Consistent with the federal regulations, Department policy provides that FAP groups without any senior/disabled/disabled veteran (SDV) member must have income that does not exceed the gross income limit, and the net income limit based on group size. BEM 550 (April 2022), p. 1. Here, Petitioner has a group size of three, herself and her two children, with no SDV members. The gross income limit for a three person FAP group is \$2,694. RFT 250 (October 2023), p. 1. The net income limit for a three person FAP group is \$2,072.

Here, the Department denied Petitioner FAP for March 2024 ongoing due to excess gross income. 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 earned 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

¹ Per policy, income means a benefit or payment received by an individual which is measured in money. BEM 500 (April 2022), p. 3. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. The Department must count all income that is **not** specifically excluded. BEM 500, p. 3. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. BEM 500, p. 4. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500, pp. 4-5. This may be more than the actual amount an individual receives.

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. Prospective income for child support is the average of child support payments received in the past three calendar months unless changes are expected. BEM 505, p. 4.

In the instant case, Petitioner is employed and has earned and unearned income. The Department provided a FAP-EDG Net Income Results budget for March 2024, and it was reviewed on the record. (Exhibit A, pp. 43-44). For the March 2024 benefit period, the Department concluded that Petitioner had \$ [REDACTED] in total income, with \$ [REDACTED] in earned income and \$ [REDACTED] in unearned income from child support. (Exhibit A, pp. 32, 38, 43). Petitioner's standard monthly employment income based on the provided paystubs showing biweekly pay of \$ [REDACTED] and \$ [REDACTED] were properly determined to be \$ [REDACTED]. Likewise, because Petitioner consistently received \$ [REDACTED] monthly for her two children, the unearned income was also properly calculated. Based on total household income of \$ [REDACTED] Petitioner had monthly income in excess of the \$2,694 gross income limit for her 3-person household. RFT 250, p. 1.

Based on having earned income and no SDV members in the household, Petitioner's FAP group was eligible for the following deductions to income: the earned income deduction, the standard deduction, childcare expenses, child support expenses, and the excess shelter deduction. BEM 554 (xx), p. 1; BEM 556 (xx), pp. 3-5. Petitioner was then properly given the standard deduction of \$198 based on her 3-person FAP group and earned income deduction of \$705, based on 20% of her gross monthly earned income of \$ [REDACTED]. RFT 255 (October 2023), p. 1; BEM 556 (March 2024), p. 3. With the earned and unearned income, and allowable deductions, Petitioner has an adjusted gross monthly income (AGI) of \$ [REDACTED].

As a homeless individual, Petitioner was not given any deductions for housing costs but was provided with the highest allowable heat and utility standard in the amount of \$680 based on her receipt of the home heating credit. BEM 554 (July 2024), p. 14. This results in a total shelter amount of \$680. The total shelter amount is then reduced by 50% of the Petitioner's AGI to determine the excess shelter amount.

Here, Petitioner was given an excess shelter deduction of \$0 because the AGI amount was greater than the excess shelter amount. The excess shelter deduction is then subtracted from the AGI to arrive at the net income amount. Therefore, Petitioner's AGI of \$ [REDACTED] is her net income. The monthly net income limit for a group size of three for FAP purposes is \$2,072. RFT 250 (October 2023), p. 1. With a monthly net income of \$ [REDACTED] Petitioner is well over the income limit threshold to receive FAP benefits.

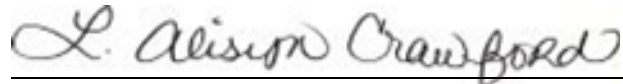
A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by the Petitioner at the time of her application. Petitioner's deductions and shelter allotment are governed by FAP policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the

Department with information that Petitioner now receives less monthly earned or unearned income, the Department can reassess Petitioner's eligibility for FAP benefits.

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 denied Petitioner's FAP benefits March 2024 ongoing due to excess income.

DECISION AND ORDER

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



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

Richard Latimore
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Interested Parties

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Via-First Class Mail :

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Authorized Hearing Rep.

[REDACTED]
[REDACTED]
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