



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

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██████████, MI ██████████

Date Mailed: January 16, 2025
MOAHR Docket No.: 24-013669
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 January 9, 2025, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Jennifer Richard. Department Exhibit 1, pp. 1-38 was received and admitted.

ISSUE

Did the Department properly close Petitioner's FAP benefits 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 October 21, 2024, Petitioner submitted redetermination paperwork.
2. On November 15, 2024, a Notice of Case Action was sent to Petitioner informing her that her FAP benefits would be closing effective December 1, 2024, due to excess income.
3. On December 4, 2024, Petitioner requested hearing disputing the closure of FAP benefits.
4. Petitioner had ██████████ in employment income the month of review, October 2024.
5. Petitioner had received ██████████ per month in child support on average for the 3 months prior to October 2024 on behalf of her ██████████ year old son, initials S.J.

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.

Child Support Income

Past Three Months:

- Use the average of child support payments received in the past three calendar months unless changes are expected. Include the current month if all payments expected for the month have been received.

BEM 505

Using Past Income:

Use past income to prospect income for the future unless changes are expected:

- Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

Note: The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Exception: For FAP only, when processing a semi-annual contact, the 30-day period can begin up to 30 days before the day the MDHHS-1046, Semi-Annual Contact Report, is received by the client or the date a budget is completed. Any 30-day period that best reflects the client's prospective income within these guidelines can be used.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay(s) is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

BEM 505

In this case, Petitioner had [REDACTED] in employment income and \$386 in child support income when the Department processed her redetermination paperwork. After deducting the earned income deduction, the standard deduction and the excess shelter deduction, Petitioner had [REDACTED] in net income. The net income limit for a household of 4 is [REDACTED]. Therefore, Petitioner was over the income limit and the closure due to excess income was proper and correct and consistent with Department policy.

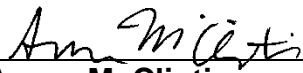
Petitioner raised issues with regard to some of her income during the month of review being overtime and was irregular. The two checks used by the Department were for 92 and 97 hours. Even if Petitioner's income only included 80 hours per week, she would have been well over the income limit. Petitioner also raised issues with regard to her child that she receives child support for, 17 year old male, initials S.J., currently living with his grandparents, questioning whether his child support income should be included in her FAP budget. Petitioner did not report to the Department that her oldest child was no longer residing with her, therefore it was correct for the Department to include him and his income in Petitioner's FAP group.

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 benefits due to excess income.

DECISION AND ORDER

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

AM/ml



Aaron McClintic
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
Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Ste 200
Grand Rapids, MI 49507
MDHHS-Kent-Hearings@michigan.gov

Interested Parties

BSC3
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

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