



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

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██████████, MI ██████████

Date Mailed: January 17, 2025
MOAHR Docket No.: 24-013827
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On ██████████, 2024, Petitioner ██████████ requested a hearing to dispute a Food Assistance Program (FAP) determination. As a result, a hearing was scheduled to be held on January 15, 2025. Public assistance hearings are held 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; 45 CFR 205.10; and Mich Admin Code, R 792.11002.

The parties appeared for the scheduled hearing. Petitioner appeared and represented himself. Respondent Michigan Department of Health and Human Services (Department) had Hearing Facilitator Amber Gibson appear as its representative. Neither party had any additional witnesses.

Both parties provided sworn testimony, and one exhibit was admitted into evidence. A 43-page packet of documents provided by the Department was admitted into evidence collectively as Exhibit A.

ISSUE

Did the Department properly determine Petitioner's FAP eligibility?

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 ██████████, 2024, Petitioner applied for public assistance from the Department, including FAP benefits.

2. Petitioner has a household size of five composed of Petitioner, [REDACTED], [REDACTED], and [REDACTED]
3. Petitioner pays \$461.35 per month for housing on a land contract.
4. Petitioner pays home utilities, including utilities for heating and/or cooling.
5. Petitioner pays an internet expense.
6. Petitioner is self-employed.
7. Petitioner provided the Department with a copy of his 2023 federal income tax return, including a schedule C, as proof of his self-employment income.
8. Petitioner did not provide the Department with receipts or other proof to establish the amount of his self-employment expenses.
9. The schedule C showed Petitioner's self-employment income. The schedule C showed that Petitioner reported gross receipts of [REDACTED], cost of goods sold of \$117,622, and a gross income of [REDACTED]
10. The Department reviewed Petitioner's schedule C and determined that Petitioner's countable self-employment income was [REDACTED] per month. The Department calculated this amount by taking his gross receipts of [REDACTED] dividing it by 12 months, and then reducing the product by 50% for allowable expenses.
11. The Department determined that Petitioner's gross household income exceeded the gross income limit to be eligible for FAP benefits.
12. On November 26, 2024, the Department mailed a notice of case action to Petitioner to notify him that he was ineligible for FAP benefits, effective October 28, 2024, because his gross household income exceeded the gross income limit.
13. Petitioner requested a hearing to dispute the Department's decision. Petitioner asserted that the Department overstated his income because the Department did not consider his cost of goods sold, and Petitioner asserted that the Department should have used his gross income of [REDACTED] as shown on his schedule C.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner disagrees with how the Department determined his self-employment income. The Department uses BEM 502 to determine countable self-employment income. It states that “the amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income.” BEM 502 (June 1, 2024), p. 3. “Allowable expenses are the higher of 50 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.” *Id.*

The Department properly determined Petitioner’s self-employment income in accordance with BEM 502. The Department used Petitioner’s gross receipts, which were equivalent to total proceeds as used in BEM 502. The Department then deducted 50% of Petitioner’s gross receipts as allowable expenses because Petitioner did not claim and verify his actual self-employment expenses.

Expenses such as cost of goods sold are considered a cost of producing self-employment income. 7 CFR 273.11(b)(1). Although cost of goods sold is considered an allowable expense, Petitioner did not claim and verify the expense, so the Department could not use Petitioner’s actual expense. The Department was required to use 50% of Petitioner’s total proceeds as Petitioner’s allowable expenses.

For these reasons, the Department properly determined Petitioner’s countable self-employment income. The Department used Petitioner’s gross receipts of [REDACTED], divided it by 12 months, and then reduced the product by 50% for allowable expenses. This resulted in a countable self-employment income of [REDACTED] per month.

Petitioner’s countable self-employment income of [REDACTED] per month exceeded the gross income limit for a household size of five. The gross income limit for a household size of five was \$3,963.00. RFT 250 (October 1, 2024). Since Petitioner’s countable self-employment income exceeded the gross income limit, the Department properly determined that Petitioner was ineligible for FAP benefits.

Petitioner may reapply for FAP benefits and claim and verify his actual self-employment expenses. If Petitioner’s verified allowable self-employment expenses exceed 50% of his total proceeds, then the Department will use Petitioner’s verified allowable self-employment expenses to determine Petitioner’s countable self-employment income.

DECISION AND ORDER

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 its policies and the applicable law when it determined Petitioner’s FAP eligibility.

IT IS ORDERED, the Department's decision is **AFFIRMED**.



JK/pe

Jeffrey Kemm
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
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P.O. Box 30088
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Interested Parties
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B. Cabanaw
M. Holden
N. Denson-Sogbaka
MOAHR

Via First Class Mail:

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