



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: January 7, 2019  
MAHS Docket No.: 18-012580  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** John Markey

### **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 2, 2019, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Amanda Kremkow, Eligibility Specialist. During the hearing, a 29-page packet of documents was offered and admitted as Exhibit A, pp. 1-29.

### **ISSUES**

Did the Department properly determine Petitioner's prorated Food Assistance Program (FAP) benefits for the period from September 18, 2018, through September 30, 2018?

Did the Department properly determine Petitioner's monthly FAP benefits, effective October 1, 2018?

### **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 applied for FAP benefits on [REDACTED] 2018. Exhibit A, pp. 5-10.
2. On the application, Petitioner indicated that he had monthly housing expenses totaling \$ [REDACTED]. Petitioner timely provided verifications showing that he had monthly housing expenses of \$ [REDACTED]. Exhibit A, pp. 9, 13-14.

3. During the post-application interview, Petitioner reported that he received RSDI in the amount of \$[REDACTED] per month. Petitioner also reported that his ex-wife lives with him. Exhibit A, pp. 11-12.
4. During a subsequent contact with Petitioner's ex-wife, Petitioner's ex-wife reported to the Department that she pays Petitioner \$[REDACTED] per month for rent.
5. Petitioner is responsible for a monthly premium of \$[REDACTED] for Medicare Part B. Exhibit A, pp. 18, 22.
6. On October 16, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was eligible for \$13 in FAP benefits for the period from September 18, 2018, through September 30, 2018, and \$34 per month, effective October 1, 2018. Exhibit A, pp. 23-27.
7. On November 21, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's calculation of his monthly FAP benefits.
8. Sometime after November 21, 2018, Petitioner reported to the Department that his ex-wife no longer pays rent and that he has housing expenses in excess of what he reported on the application.

### **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.

In this case, Petitioner submitted an application for Food Assistance Program (FAP) benefits on September 18, 2018. From the application and subsequent interviews, the Department determined that Petitioner had monthly rental income of \$[REDACTED] medical expenses of \$[REDACTED] RSDI of \$[REDACTED] and housing expenses of \$[REDACTED]. Based on those inputs, the Department calculated Petitioner's prorated September FAP benefits at \$13 and Petitioner's FAP benefits, October 1, 2018, ongoing at \$34. Petitioner objects to the Department's calculation.

### **FAP BENEFITS SEPTEMBER 18, 2018 THROUGH SEPTEMBER 30, 2018**

When an application for FAP benefits is filed during a month, the applicant may receive prorated FAP benefits for that month, so long as the amount is at least \$10. BEM 556 (April 2018), p. 6. All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits, and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1–5. Additionally, the FAP calculation takes into consideration certain expenses and other deductions that apply to reach a final net income for the purposes of determining the monthly FAP benefit amount.

Petitioner's monthly unearned income was \$[REDACTED], all from RSDI. He received \$[REDACTED] in rental income, which is reduced by 60% and considered earned income pursuant to Department policy concerning rental income. BEM 504 (January 2018), p. 2. Thus, Petitioner had \$[REDACTED] in earned income, which is supposed to be further reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1.

In this case, the Department failed to apply the 20 percent earned income deduction when calculating Petitioner's monthly FAP benefit amount. Exhibit A, pp. 15-17. As such, the Department overstated Petitioner's countable total income, which resulted in a lesser monthly allotment of FAP benefits. Accordingly, the Department's decision finding Petitioner eligible for \$13 in Food Assistance (FAP) benefits for the period from September 18, 2018, through September 30, 2018 is reversed.

### **FAP BENEFITS, EFFECTIVE OCTOBER 1, 2018**

The Department made the same mistake in calculating Petitioner's monthly FAP benefits, effective October 1, 2018. Namely, the Department failed to disregard 20 percent of Petitioner's earned income in calculating his monthly FAP benefits. For the same reasons as described above, the Department's decision finding Petitioner eligible for \$34 in FAP benefits, effective October 1, 2018, is reversed.

### **DECISION AND ORDER**

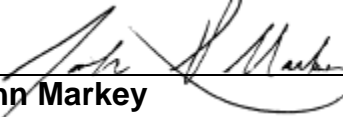
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT 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. Redetermine Petitioner's FAP benefits from the date of application and properly apply the 20 percent earned income deduction pursuant to Department policy;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits he may thereafter be due; and

3. Issue written notice of any case action(s) in accordance with Department policy.

JM/hb

  
\_\_\_\_\_  
**John Markey**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Tolisha Bates  
21885 Dunham Road  
Clinton Twp., MI 48036

Macomb County (District 12), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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