



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: April 29, 2019  
MOAHR Docket No.: 19-002915  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 24, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented himself. Eligibility Specialist, Janika Ashwood, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 25-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits?

### **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 is a FAP benefit recipient.
2. Petitioner has a household size of two.
3. Petitioner's housing expenses include property taxes and insurance. Petitioner paid \$669.56 for 2018 property taxes, and Petitioner paid \$450.00 for property insurance. Petitioner is also responsible for paying for heat and other utilities.

4. On March 4, 2019, the Department issued a redetermination to Petitioner to obtain information from Petitioner to review his eligibility for assistance. The redetermination asked Petitioner to verify his income and expenses.
5. On March 13, 2019, Petitioner completed the Department's redetermination. Petitioner reported that he had income from employment at SOS Security of approximately \$[REDACTED] per week and that he had a child support expense of approximately \$[REDACTED] per month.
6. The Department ran an inquiry with The Work Number to verify Petitioner income from employment. The Department discovered that Petitioner's most recently weekly paychecks were \$[REDACTED] \$[REDACTED] \$[REDACTED] \$[REDACTED] \$[REDACTED] and \$[REDACTED].
7. The Department ran an inquiry with child support to verify Petitioner's child support expense. The Department discovered that (a) Petitioner paid \$[REDACTED] in February 2019 and (b) Petitioner paid \$[REDACTED] in March 2019 (as of March 27, 2019).
8. On March 21, 2019, the Department issued a notice of case action which notified Petitioner that he was approved for a monthly FAP benefit of \$152.00 for a household size of two effective April 1, 2019.
9. On March 25, 2019, Petitioner filed a hearing request to dispute the Department's decision.

### **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.

The Department did not present sufficient evidence to establish that it acted in accordance with its policies and the applicable law when it determined Petitioner's FAP benefits. Although the Department properly reevaluated Petitioner's eligibility for assistance based on his reported income from employment, the Department did not present any evidence to establish that it correctly budgeted Petitioner's monthly income at \$[REDACTED] per month. When asked to describe how the Department determined that

Petitioner had a monthly income of \$ [REDACTED] per month, the Department replied that \$ [REDACTED] was the number generated by the Department's computer program based on the data it entered from Petitioner's payroll records. The Department's explanation was insufficient to establish that the Department budgeted Petitioner's income in accordance with its policies and the applicable law. Specifically, the Department did not provide any evidence to establish it budgeted Petitioner's income in accordance with BEM 505 (October 1, 2017).

Similarly, the Department did not present sufficient evidence to establish that it determined Petitioner's child support expense in accordance with BEM 554 (August 1, 2017). When asked to describe how the Department determined Petitioner's deductible child support expense, the Department again replied that it was the number generated by the Department's computer program based on the data it entered from Petitioner's child support records. The Department's explanation was insufficient to establish that the Department properly determined Petitioner's deductible child support expense in accordance with its policies and the applicable law.

Additionally, the Department appears to have miscalculated Petitioner's shelter expenses. Shelter expenses include property taxes and insurance. It appears that the Department only gave Petitioner credit for one property insurance installment payment when it should have budgeted the annual amount. Petitioner testified that he makes installment payments for his property insurance, the insurance statement provided by the Department shows that Petitioner's plan was "Installment 6" and that the amount of the installment was \$75.05. Based on this evidence, it appears most likely that Petitioner's annual property insurance should have been \$450.00 (\$75 x 6). An annual property insurance expense of \$450.00 and annual property taxes of \$669.56 equal a total monthly housing expense of \$93.30.

For these reasons, I must reverse the Department's decision. The Department must redetermine Petitioner's FAP benefit amount in accordance with this decision and then issue a new notice to Petitioner.

### **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 did not act in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefit amount.

IT IS ORDERED the Department's decision is REVERSED. The Department shall begin to implement this order within 10 days.

JK/nr



---

Jeffrey Kemm  
Administrative Law Judge  
for Robert Gordon, 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 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

**DHHS**

Denise McCoggle  
27260 Plymouth Rd  
Redford, MI  
48239

Wayne 15 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

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