



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: May 1, 2019  
MOAHR Docket No.: 19-003072  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 April 24, 2019, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Christine Brown Eligibility Specialist. Department Exhibit 1, pp. 1-86 was received and admitted.

### **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. On December 8, 2018, Notice of Case Action was sent to Petitioner informing him that his FAP benefits would be reduced to \$108 per month following an increase in his social security benefits.
2. On February 6, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing him that he was not eligible for MA because he failed to verify a vendor prepaid debit card.
3. On February 7, 2019, an Order of Dismissal was issued after Petitioner failed to appear for a hearing scheduled for February 6, 2019.
4. On March 18, 2019, Petitioner requested hearing.

5. Petitioner pays \$1,000 per month towards his land contract.

### **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.

#### **Housing Expenses**

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554

In this case, Petitioner raised issues with regard to his shelter expense and his FAP allotment. The Department alleged that Petitioner's correct housing expense was \$860.72 per month because that is what he was required to pay based on an amortization schedule. (Ex.1, p.12) However, Petitioner credibly testified at hearing, and the amortization schedule appears to support Petitioner's testimony, that he pays \$1,000 month which includes both interest and principal. (Ex. 1, p.12) The correct amount of Petitioner's housing expense is \$1,000. BEM 554, 7 CFR 273.9(d)(6)(ii)(A) Therefore, the Department incorrectly budgeted Petitioner's FAP benefit. Petitioner requested hearing on March 18, 2019, so the Department should re-budget going back to that date.

The Department believed that Petitioner's request for hearing was untimely because the most recent Notice of Case Action regarding Petitioner's FAP benefit was issued on December 8, 2018, more than 90 days prior to the request for hearing. However, Petitioner is entitled to have his FAP benefit and budgeting reviewed at any time. Petitioner's request for hearing states broadly "Fraud by Worker" and "I request Hearing".

Petitioner raised issues at hearing with regard to him being prevented from appearing in person at Department offices. That issue does not fall under the jurisdiction of the undersigned Administrative Law Judge and therefore cannot be addressed in this forum.

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 Department policy when they budgeted Petitioner's FAP benefits.

**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. Rebudget Petitioner's FAP benefit going back to the date of the request for hearing March 18, 2019, to include \$1,000 housing expense.
2. Issue a supplement for any increase in FAP benefit.

AM/nr

  
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Aaron McClintic  
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**

Linda Gooden  
25620 W. 8 Mile Rd  
Southfield, MI  
48033

Oakland 3 County DHHS- via electronic  
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BSC4- via electronic mail

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D. Sweeney- via electronic mail

**Petitioner**

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