



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 31, 2019  
MOAHR Docket No.: 19-004131  
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 May 22, 2019, from Lansing, Michigan. The Petitioner was represented by himself. [REDACTED] [REDACTED] also appeared and testified. The Department of Health and Human Services (Department) was represented by Cheryl Watkins, AP Supervisor. Alicia Miller, AP Worker, also appeared and testified for the Department. Department Exhibit 1, pp. 1-20 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. Petitioner's were FAP recipients receiving \$488 per month.
2. Petitioner's FAP benefits were reduced to \$131 effective June 1, 2019.
3. On April 11, 2019, Petitioner requested hearing disputing the reduction of FAP benefits.
4. Household member [REDACTED] [REDACTED] receives \$ [REDACTED] per month in self-employment income.

## **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.

### **Self-Employment Expenses**

#### **All Programs except Medicaid**

DHS-431, Self-Employment Statement, with receipts. BEM 502, p.8(July 2017)

### **SELF-EMPLOYMENT EXPENSES**

#### **Allowed**

#### **Allowable expenses include all of the following:**

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below. BEM 502 pp. 3-4

In this case, Petitioner disputed the reduction of his FAP allotment. Petitioner receives \$[REDACTED] in earned self-employment income. After deducting the earned income deduction of \$[REDACTED] the \$198 standard deduction, Petitioner has \$[REDACTED] in net income. A recipient who has \$[REDACTED] in net income is entitled to \$131 in monthly FAP benefit. This is the amount determined by the Department and it is proper and correct. RFT 260, BEM 556, 7 CFR § 273.9

Issues were raised regarding processing self-employment expenses. Petitioner pointed out that full year tax returns were provided and asserted that the tax return should be used to determine self-employment expenses. The Department stated that updated self-employment expense information with receipts would be needed to determine self-employment expenses. BEM 502 Department policy supports the Department's position. If Petitioner wants the Department to take into consideration self-employment expenses, they should provide a self-employment statement with recent receipts. BEM 502

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 determined Petitioner's FAP benefits.

### **DECISION AND ORDER**

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

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

**DHHS**

Sarina Baber  
22 Center Street  
Ypsilanti, MI  
48198

Washtenaw County DHHS- via electronic  
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

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