



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 31, 2019  
MOAHR Docket No.: 19-004247  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

**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 23, 2019, from Lansing, Michigan. Petitioner was unrepresented. Petitioner's spouse, ██████████, appeared as a witness. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

**ISSUE**

Did the Department properly calculate Petitioner's 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. At all relevant times prior to the negative action herein, Petitioner, her spouse, and her 3 children received FAP benefits of \$762.00 per month.
2. Both parents do not comply with Work First due to having a child under 6 years of age.
3. On February 7, 2019, the help desk resolved an FAP group composition error which was resolved. Neither parent reported earned income. During the investigation, questions were raised as to how the group was maintaining expenses based on a reported ██████████ unearned income assistance. This resulted in a FEE request with the OIG investigation, resulting in verification of

Petitioner and her spouse with approximately [REDACTED] per year property taxes, mortgage monthly payments of [REDACTED], along with auto payments, insurance, cable, T-Mobile, all verified as being paid. During the investigation, Petitioner reported [REDACTED] per month in financial assistance from family members, causing the FAP case to close.

4. On April 23, 2019, Petitioner reapplied verifying family income assistance between [REDACTED] and [REDACTED] per month.
5. The Department recalculated eligibility showing the family eligible for \$447.00 in FAP benefits.
6. On April 23, 2019, Petitioner filed a hearing request asking for the prior \$762.00 in FAP benefits.

### **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.

Applicable policy to relevant to FAP income, expenses and budgeting is found primarily at BEM 500, 503 and 550. Corresponding federal regulations are found at 7 CFR 273.10, 273.2, 273.9, 273.10 and 273.2.

In this case, Petitioner argues that nothing has changed and requested that their FAP benefits be paid at the \$762.00 amount per month amount, prior to the OIG investigation. The Department argues that that the \$762.00 amount was incorrect, and based on the income verifications, the family is only entitled to \$447.00. The Department further stated that recoupment/repayment of overissued benefits will likely be done by the Department in the future, but that no action has been taken at this time, and no overpayment/recoupment is at issue in this administrative hearing.

Here, Petitioner essentially argues that she should be entitled to more benefits than she is eligible for as 'nothing has changed', and if there is any error, it is Department error. However, Petitioner failed to offer any federal law or Department policy that would support that the budgeting here, i.e. the income and expenses used in calculating the \$447.00 issuance, was incorrect.

As to Petitioner profiting from an error by the Department, there is no federal or state law that would allow individuals to profit from Department-caused errors where there is no eligibility otherwise. In fact, while not at issue in the present hearing, federal law mandates that the state recoup any welfare benefits issued due to Department error where otherwise allowed; failure to do so can subject the State of Michigan to significant financial penalties.


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 calculated Petitioner's FAP issuance based on the April 23, 2019 FAP application.

**DECISION AND ORDER**

Accordingly, the Department's decision is

**AFFIRMED.**

JS/dh

  
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**Janice Spodarek**  
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**

Susan Noel  
26355 Michigan Ave.  
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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