



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: June 26, 2019  
MOAHR Docket No.: 19-005201  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on June 20, 2019, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Amber Gibson.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for 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 receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 16-18.
2. Petitioner's son receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] and these benefits are sent to a payee that is not part of Petitioner's household. Exhibit A, pp 13-15.
3. Petitioner is responsible for child support payments of \$ [REDACTED] in November of 2018, \$ [REDACTED] in December of 2018, and \$ [REDACTED] in January of 2018. Exhibit A, p 20.
4. Petitioner is responsible for rent in the monthly amount of \$406.79.

5. On February 20, 2019, the Department notified Petitioner that he was eligible for a \$25 monthly allotment of Food Assistance Program (FAP) benefits as of March 1, 2019. Exhibit A, pp 9-12.
6. On May 7, 2019, the Department received Petitioner's verbal request for a hearing protesting the level of Food Assistance Program (FAP) benefits he is receiving. Exhibit A, p 2.
7. On May 23, 2019, the Department notified Petitioner that he is eligible for a \$29 monthly allotment of Food Assistance Program (FAP) benefits as of March 1, 2019. Exhibit A, p 27.

### **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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

Income paid to an individual acting as a representative for another individual is not the representative's income. The income is the other individual's income. BEM 500, p 8.

The Department will use the average of child support payments in the past three calendar months, unless changes are expected. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2016), p 5.

Petitioner is an ongoing FAP recipient as a group two. Petitioner and his son received income in the gross monthly amount of \$ [REDACTED] which is the total of their RSDI payments. Petitioner's adjusted gross income of \$1,353 was determined by reducing their total income by the \$158 standard deduction and the \$17 child support deduction. The child support deduction was determined by taking the average of payments made over a three-month period as directed by BEM 505.

Petitioner is entitled to a \$274 deduction for shelter expenses, which was determined by reducing the total of his \$406.79 monthly rent obligation and the \$543 standard heat and utility deduction by 50% of his adjusted gross income.

Petitioner testified that his rent had increased, but conceded that verification of that increase has not been submitted to the Department.

Petitioner's net income of \$ [REDACTED] was determined by reducing his adjusted gross income by the \$274 shelter deduction. A group of two with a net income of \$ [REDACTED] is entitled to a \$29 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018).

Petitioner disputed that his son's RSDI benefit is countable towards his eligibility for FAP benefits because this income is not available to him.

However, even though the income has been sent to a payee outside the household, Department policy in BEM 500 requires that the income be countable towards the grantee of those RSDI benefits.

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 eligibility for Food Assistance Program (FAP) benefits as of March 1, 2019.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**Kevin Scully**  
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**

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BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
MI [REDACTED]