



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: August 12, 2019  
MOAHR Docket No.: 19-007269  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

### **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 August 8, 2019, from Lansing, Michigan. The Petitioner was represented by Petitioner, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Eligibility Specialist and Hearings Coordinator.

Respondent's Exhibit A pages 1-17 were admitted as evidence. Petitioner's Exhibits 1-12 were admitted as evidence on the record.

### **ISSUE**

Did the Department properly Petitioner's Food Assistance Program (FAP) benefit allotment?

### **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 Food Assistance Program recipient for herself, her live together partner and eight minor children.
2. Petitioner was receiving FAP benefits for a group size of five people from July 1-31, 2019 in the amount of \$762.00 (with earned income of \$ [REDACTED] per month.) (Respondent's Exhibit 3)
3. A new budget was generated for August 1, 2019 forward, with ten household members and \$ [REDACTED] in household income.

4. The Department determined that Petitioner is entitled to receive \$417 per month in FAP benefits for a group size of 10 people from August 1, 2019 forward. (Respondent's Exhibit 5)
5. On July 9, 2019, the Department sent Petitioner a Notice Case Action indicating that her FAP benefits would be reduced to \$417 per month.
6. On July 9, 2019, Petitioner filed a Request for Hearing to contest the reduction of FAP benefits.
7. On June 4, 2019, the Michigan Office of Administrative Hearings and Rules received a Hearing summary and attached documents.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, table 240-1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. Document income budgeting on either a manually calculated or an automated FAP worksheet. (BEM 550, page 1)

Bridges converts all expenses (except one-time-only expenses the group does not wish to average) to a nonfluctuating monthly amount. The same conversion method is used to determine countable available income in BEM 505.

Fluctuating income: Income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. BEM 505, page 2

Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. To prospect income, you will need to know:

- The type of income and the frequency it is received (such as, weekly).

- The day(s) of the week paid.
- The date(s) paid.
- The gross income amount received or expected to be received on each pay date.  
BEM 505, page 4

A standard monthly amount must be determined for each income source used in the budget.

### ***Stable and Fluctuating Income***

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- **Multiply amounts received every two weeks by 2.15. (Emphasis added)**
- Add amounts received twice a month.

This conversion considers fluctuations due to the number of scheduled pays in a month.

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

**In the instant case, Petitioner's partner earns approximately \$[REDACTED] per month. Petitioner earns approximately \$[REDACTED] per month. Two of her children receive average monthly child support of \$176.33. For the month of July 2019, the Department counted Petitioner's total monthly income as \$4446 (3994 in earned income + \$452 in unearned income).**

**Her shelter amount is \$496 per month in lot rent and \$346 per month in mortgage.**

**Petitioner was then given the standard deduction of \$228 and \$799 earned income deduction for an adjusted gross income of \$3419.**

**Petitioner was given an excess shelter deduction of Petitioner's housing expenses are \$914.14, and Petitioner was given a heat and utility standard of \$543.00 for a total of \$1457 total shelter expenses.**

**$\$3419 \times .30$  (net income divisor) = \$1026.**

**The maximum monthly FAP benefit for a ten-person group = \$1443.**

**\$1443 maximum benefit - \$1026 (30% of net income) = \$417 in monthly FAP benefit allotment.**

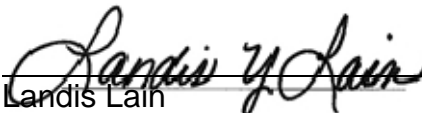
A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by the Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the Department with information that Petitioner now receives less monthly earned income, the Department can reassess Petitioner's eligibility for increased Food Assistance Program 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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for a \$417.00 per month in Food Assistance Program benefits. The Department has established its case by a preponderance of the evidence.

**DECISION AND ORDER**

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

LL/nr



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Landis Lain  
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**

Montrece White  
27690 Van Dyke  
Warren, MI 48093

Macomb 36 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

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

**Authorized Hearing Rep.**

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