



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: September 24, 2019  
MOAHR Docket No.: 19-009089  
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 September 19, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Veronica Rumschlag and Taisia Singleton.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

### **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 was an ongoing Food Assistance Program (FAP) recipient as a group of one on June 1, 2019, and she was receiving a \$ [REDACTED] monthly allotment of benefits.
2. Petitioner receives monthly income in the gross monthly amount of \$ [REDACTED]
3. On August 14, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of home rent by August 26, 2019.
4. On August 23, 2019, the Department notified Petitioner that she was eligible for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits as of July 20, 2019.
5. The Department received verification that Petitioner's monthly rent increased to \$480.

6. On August 23, 2019, the Department notified Petitioner that she was eligible for a \$[REDACTED] monthly allotment of Food Assistance Program (FAP) benefits as of September 1, 2019.
7. The Department received Petitioner's request for a hearing on [REDACTED] [REDACTED] [REDACTED] protesting the amount of Food Assistance Program (FAP) benefits she is eligible for.

### **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.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (April 1, 2019), p 14.

The heat/utility standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups whose heat is included in their rent may still qualify for the heat/utility standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 400, p 15.

Petitioner was an ongoing FAP recipient as a group of one as of June 1, 2019, and she was receiving a \$[REDACTED] monthly allotment of FAP benefits. Department records indicate that Petitioner had received a LIHEAP payment exceeding \$20.01 in the previous 12 months, and the heat/utility standard deduction had been applied towards her eligibility for FAP benefits.

On August 23, 2019, the Department determined that Petitioner had not received a LIHEAP payment exceeding \$20.01 in the previous 12 months, and that she was not otherwise entitled to the heat/utility deduction because utilities are included in her monthly rent obligation. The LIHEAP payments are verified by the Department electronically through the Department's electronic database and no evidence was

presented on the record that Petitioner has received a LIHEAP payment in the previous 12 months. As a result of the heat/utility deduction being removed from her FAP budget, Petitioner's monthly allotment of FAP benefits was reduced to \$18.

The Department then received verification that Petitioner's monthly rent expenses increased to \$480, and initiated a review of her eligibility for ongoing benefits including this expense.

Petitioner receives a gross monthly income of \$ [REDACTED] which was not disputed during the hearing. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing her total monthly income by the \$158 standard deduction.

Petitioner is entitled to a \$61 shelter deduction, which was determined by reducing the total of her \$480 rent expenses and the \$31 standard telephone expense by 50% of her adjusted gross income. FAP recipients that receive the heat/utility deduction are not entitled to any other shelter deductions, but after the heat/utility deduction was removed, Petitioner became eligible for the telephone expense deduction.

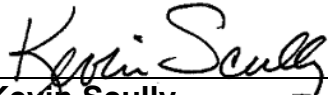
Petitioner's net income of \$ [REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a \$ [REDACTED] net monthly income is entitled to a \$57 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 7.

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 the Food Assistance Program (FAP).

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
\_\_\_\_\_  
**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**

Kimberly Kornoelje  
121 Franklin SE  
Grand Rapids, MI 49507

Kent County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED], MI [REDACTED]