



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: October 25, 2019  
MOAHR Docket No.: 19-009701  
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 October 17, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Sabrina Morris and Rachael Walker.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determined 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. On [REDACTED], the Department received Petitioner's application for Food Assistance Program (FAP) benefits.
2. On June 13, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of March 14, 2019. Exhibit A, p 24.
3. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing. Exhibit A, p 2.
4. On October 17, 2019, the Department notified Petitioner that she is eligible for Food Assistance Program (FAP) benefits effective March 14, 2019, but ineligible for ongoing benefits effective April 1, 2019.

## **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.

A group's financial eligibility and monthly benefit amount are determined using: Actual income (income that was already received). Prospected income amounts (not received but expected). Only countable income is included in the determination; see BEM 500. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received; see standard monthly amount in this item. Available income is income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated, and the date of receipt is known. Available income includes garnisheed amounts and income received jointly. BEM 505. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), p 1.

The Department will use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. Prospective income may be used for past month determinations when all of the following are true: Income verification was requested and received. Payments were received by the client after verifications were submitted. There are no known changes in the income being prospected. BEM 505, p 3.

On [REDACTED] 2019, the Department received Petitioner's FAP application. The application was denied. On June 13, 2019, the Department made another determination of eligibility, and again denied the application. On October 17, 2019, the Department again revised its determination, and this time determined that Petitioner was eligible for FAP benefits as of March 1, 2019, but ineligible for ongoing benefits effective April 1, 2019.

Petitioner testified that she did not receive her regular monthly payment of RSDI benefits for March and April in those months, but received that benefit payment in June of 2019. The Department did not dispute that some of Petitioner's RSDI benefits were received retroactively.

The hearing record is insufficient to establish when Petitioner received her RSDI benefits payments or how countable income for April was determined.

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 failed to satisfy its burden of showing that it 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 REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Reprocess Petitioner's [REDACTED] 2019, application for assistance and initiate a determination of Petitioner's eligibility for the Food Assistance Program (FAP).

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**

Yvonne Hill  
30755 Montpelier Drive  
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED], MI [REDACTED]