



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: November 22, 2019
MOAHR Docket No.: 19-011176
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 November 14, 2019, from Lansing, Michigan. The Petitioner was represented by herself. Petitioner's husband, [REDACTED] [REDACTED] also appeared and testified. The Department of Health and Human Services (Department) was represented by Ashley Brown, Eligibility Specialist. Department Exhibit 1, pp. 1-11 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's 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 was a recipient of FAP benefits receiving \$ [REDACTED] per month.
2. Petitioner's FAP benefits were reduced to \$ [REDACTED] effective October 1, 2019.
3. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the reduction of FAP benefits.
4. The Department was previously budgeting FIP benefits that closed in the FAP budget. That issue was resolved prior to hearing, Petitioner was issued a supplement after the correction.

5. At the time of hearing, the Department had not issued November FAP benefits to Petitioner.

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.

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.

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. Gross countable earned income is reduced by a 20 percent earned income deduction. 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

Irregular Income

For irregular income, determine the standard monthly amount by adding the amounts entered together and dividing by the number of months used.

Bridges will convert or average income automatically, when appropriate, based on the information you enter about the income. BEM 505

In this case, the Department was budgeting FIP benefits that had closed in the FAP budget. That issue was resolved prior to hearing after the FIP benefits were removed from the budget and the issuance of a supplement. In addition, Petitioner's FAP benefits had not been issued for November 2019. The Department agreed that November FAP benefits should have been issued.

Petitioner questioned the reduction of her FAP allotment and requested that the budgeting be reviewed. Petitioner questioned whether it was proper for her husband's overtime employment income to be budgeted because it was irregular. Department policy dictates that irregular employment income be budgeted by adding the amounts entered together and dividing by the number of months used. BEM 505 This was the

method used by the Department to determine earned income of \$ [REDACTED] per month. If Petitioner's husband's employment income is reduced, then that should be reported, and the Department should re-budget FAP 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 FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the budgeting of employment income and **REVERSED IN PART** with respect to November 2019 FAP benefits not being issued.

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:

1. Issue November 2019 FAP benefits.

AM/nr



Aaron McClintic
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

Chelsea McCune
27690 Van Dyke
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48093

Macomb 20 County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI