



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: November 26, 2019  
MOAHR Docket No.: 19-011547  
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 November 21, 2019, from Lansing, Michigan. Petitioner was represented by herself and her mother [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Heather Hembree.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP) and State Disability Assistance (SDA) 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 is an ongoing Food Assistance Program (FAP) recipient as a group of one.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
3. Petitioner is eligible for Qualified Medicare Beneficiary (QMB) benefits.
4. On July 11, 2019, the Department notified Petitioner that she was not eligible for State Disability Assistance (SDA) benefits as of August 1, 2019, and that she was eligible for a \$177 monthly allotment of Food Assistance Program (FAP) benefits as of August 1, 2019. Exhibit A, pp 7-9.

5. On October 8, 2019, the Department notified Petitioner that she was eligible for a \$127 monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 5-6.
6. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits she is receiving, and the denial of State Disability Assistance (SDA) benefits. Exhibit A, pp 3-4.

### **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).

#### State Disability Assistance (SDA)

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

SDA is a cash program for individuals who are not eligible for Family Independence Program (FIP) and are disabled or the caretaker of a disabled person. An SDA eligibility determination group consists of either a single adult or adult and spouse living together. Department of Health and Human Services Bridges Eligibility Manual (BEM) 214 (April 1, 2019), p 1. The payment standard is the maximum benefit amount that can be received by the certified group. Department of Health and Human Services Bridges Eligibility Manual (BEM) 515 (October 1, 2018), p 1. The payment standard for an unmarried individual is \$200. Department of Health and Human Services Reference Table Manual (RFT) 225 (December 1, 2013), p 1.

Petitioner applied for SDA benefits, and it was not disputed that she is disabled based on her receipt of RSDI benefits. Although Petitioner appears to meet the non-financial requirements to receive SDA benefits, her income exceeds the payment standard, and she is not eligible to receive any SDA benefits. The Department properly denied SDA benefits on July 11, 2019.

#### Food Assistance Program (FAP)

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 consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8 – 9.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner is an ongoing FAP recipient as a group of one, and she received RSDI in the gross monthly amount of \$[REDACTED]. In the past, Petitioner was paying for her Medicare Part B premium out of her social security benefits, and this deduction from her gross monthly income was reflected in a medical deduction applied towards her eligibility for FAP benefits as a countable expense exceeding \$35.

Since August 1, 2019, Petitioner was granted Qualified Medicare Beneficiary (QMB) benefits, and her Medicare Premiums are being paid for by the Department. As of October 1, 2019, Petitioner no longer received credit for this expense. Petitioner denied that she is not obligated to pay Medicare premiums out of her social security benefits, but failed to offer evidence verifying that she remains obligated to pay this expense.

Further, as of October 1, 2019, the standard heat and utility deduction was reduced.

Regulations governing the hearing and appeal process for recipients of Food Assistance Program (FAP) benefits in Michigan who, as a group, are affected by a federal or state-initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(2) states that “[a] hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.”

Similarly, the Department of Health and Human Services Bridges Administrative Manual (BAM) provides that the Michigan Office of Administrative Hearings and Rules will not grant a hearing regarding the issue of a mass update required by state or federal law unless the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2019), p 8.

Therefore, the reduction of the standard heat and utility deduction is not an issue that can be addressed by the Michigan Office of Administrative Hearing System (MOAHR).

As of October 1, 2019, Petitioner’s adjusted gross income of \$[REDACTED] was determined by reducing her gross monthly income by the \$161 standard deduction. Petitioner is entitled to a \$271 deduction for shelter expenses, which was determined by reducing her shelter expenses, which consist of only the heat and utility deduction, by 50% of her adjusted gross income.

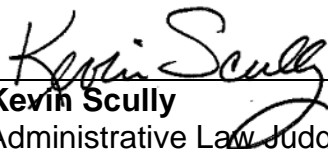
Petitioner's net income of \$ [REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a net income of \$ [REDACTED] is entitled to a \$127 monthly allotment of Food Assistance Program (FAP) benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 4.

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 October 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**

Linda Gooden  
25620 W. 8 Mile Rd  
Southfield, MI 48033

Oakland County (District 3)

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

L. Karadsheh via electronic mail

**Petitioner**

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