



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

██████████  
██████████  
██████████ MI ██████████

Date Mailed: December 26, 2019  
MOAHR Docket No.: 19-012384  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: John Markey**

### **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 December 18, 2019 from ██████████ Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Keeona Remmer, Assistance Payments Worker. During the hearing, a 34-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-34.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Food Assistance Program (FAP) benefits, effective July 1, 2019?

### **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 recipient of FAP benefits from the Department.
2. On June 25, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective July 1, 2019. Exhibit A, pp. 24-25.
3. On August 5, 2019, Petitioner requested a hearing to dispute the termination of her FAP benefits.

4. On August 29, 2019, a hearing was held before Administrative Law Judge (ALJ) Christian Gardocki in Docket No. 19-008236.
5. On September 5, 2019, ALJ Gardocki issued a Hearing Decision in Docket No. 19-008236. The Department was ordered to redetermine Petitioner's FAP eligibility beginning July 2019 and issue a supplement of any benefits improperly not issued.
6. On September 11, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closed, effective July 1, 2019. The reason given was that the Department found that Petitioner's net income exceeded the limit for program eligibility. Exhibit A, pp. 30-34.
7. On November 8, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions.

### **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.

In this case, Petitioner objects to the Department's determination that, effective July 1, 2019, her household is ineligible for FAP benefits as a result of the household's income exceeding the limit for program eligibility. The Department determined that Petitioner's monthly earned income was \$[REDACTED]. On the forms Petitioner returned to the Department, Petitioner indicated that she received \$[REDACTED] every two weeks from her employment. The Department, however, used information it received showing that Petitioner received income of over \$[REDACTED] from her employment during the month of July 2019. Petitioner objected to the usage of those figures because they included extraordinary income in the form of vacation payouts that are only received once per year.

Periodically, the Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (October 2019), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period. BAM 210, p. 3. The redetermination

process begins when the client files a DHS-1010, Redetermination. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are complete. BEM 210, p. 12. The redetermination process is complete once the Department certifies a new benefit period. BEM 210, p. 19. The Department must seek to verify income at redetermination. BEM 505 (October 2017), p. 14. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BEM 210, p. 18. Verification is also required when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3.

It is clear that information concerning Petitioner's income was unclear and inconsistent at the time the decision regarding Petitioner's income eligibility was made. In such circumstances, the Department must seek to gain better clarity into the matter by issuing new requests for verification that specifically detail what is needed. The Department failed to do that in this case. Instead, it relied upon the outlier income information provided showing that Petitioner's income was much higher than it actually was.

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 did not act in accordance with Department policy when it determined that Petitioner's household income exceeded the limit for program eligibility, effective July 1, 2019.

### **DECISION AND ORDER**

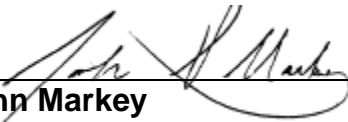
Accordingly, the Department's decision is **REVERSED**.

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:

1. Redetermine Petitioner's FAP eligibility from July 1, 2019, ongoing;
2. In making the determination of Petitioner's FAP eligibility, use actual income for each month and run budgets to determine whether Petitioner is eligible for any additional benefits;
3. If Petitioner is eligible for additional benefits, promptly issue a supplement;
4. If any eligibility-related factors are unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications; and

5. Notify Petitioner in writing of its decisions.

JM/jaf


---

**John Markey**  
 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**

Denise McCoggle  
 MDHHS-██████████-Hearings  
 BSC4  
 M Holden  
 D Sweeney

**Petitioner**

██████████  
 ██████████  
 ████████ MI ████████