



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: December 23, 2019  
MOAHR Docket No.: 19-012547  
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 December 19, 2019, from Lansing, Michigan. Petitioner was represented by herself and [REDACTED] and [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Marlin Dorsey and Margaret Root.

### **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 is an ongoing Food Assistance Program (FAP) recipient as a group of five.
2. Petitioner's spouse receives monthly earned income in the gross monthly amount of \$1,840. Exhibit A, pp 10-12.
3. One of Petitioner's children receives monthly earned income in the gross monthly amount of \$552. Exhibit A, p 9.
4. Petitioner is responsible for rent in the monthly amount of \$547. Exhibit A, p 31.
5. On October 17, 2019, the Department notified Petitioner that she was eligible for a \$318 monthly allotment of Food Assistance Program (FAP) benefits as of November 1, 2019. Exhibit A, pp 25-29.

6. On November 18, 2019, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, pp 1-2.

### **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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Petitioner is an ongoing FAP recipient. Petitioner's spouse is employed and received earned income in the gross monthly amount of \$1,840.40, which was determined by multiplying the average of his gross bi-weekly paychecks of \$1,008 and \$704 by the 2.15 conversion factor as required by BEM 505. One of Petitioner's children is employed and receives earned income in the gross monthly amount of \$522, which was determined by multiplying the average of his gross bi-weekly paychecks of \$200 and \$313 by the 2.15 conversion factor as required by BEM 505.

Petitioner's adjusted gross income of \$1,710 was determined by reducing the total household income by the \$203 standard deduction and the 20% earned income deduction.

Petitioner is entitled to a \$210 shelter deduction, which was determined by reducing the total of the \$547 rent obligation and the \$518 standard heat and utility deduction by 50% of the adjusted gross income.

Petitioner's net income of \$1,500 was determined by reducing the adjusted gross income by the shelter deduction, which entitled Petitioner to a \$318 monthly allotment of FAP benefits.


Petitioner circumstances have changes since October 17, 2019, and the household's eligibility for FAP benefits in the future will change based on those circumstances.

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) as of November 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**

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