



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: January 23, 2020  
MOAHR Docket No.: 19-012719  
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. On December 27, 2019, the hearing was adjourned. On January 13, 2020, an appearance by an authorized hearing representative was received by Michigan Office of Administrative Hearing System (MOAHR). After due notice, an in-person hearing was held on January 15, 2020, from Flint, Michigan, after the authorized hearing representative withdrew representation of Petitioner, and Petitioner agreed to proceed with the case representing herself. The Department was represented by April Nemec and Robert Ramirez.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly close 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 an ongoing Food Assistance Program (FAP) recipient on November 1, 2019, when the Department received Petitioner's Renew Benefits form submitted online. Exhibit A, pp 7-13.
2. Along with the Renew Benefits form, Petitioner filed her federal tax return on Form 1040, and Schedule C form showing her self-employment income. Exhibit A, pp 14-16.
3. The Schedule C tax form shows gross receipts of \$ [REDACTED] and total expenses of \$ [REDACTED]. Exhibit A, p 15.

4. On November 15, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective December 1, 2019. Exhibit A, pp 26-30.
5. On November 21, 2019, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, p 6.

### **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.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides child care in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (October 1, 2019), p 1.

The Department is required to periodically redetermine or renew a household's eligibility for active programs including a thorough review of all eligibility factors. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. The DHS-3403, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. If verifications are provided by the required deadline but too later for normal benefit issuance, benefits must be issued within five workdays. Department of Health and Human Services Bridges Administrative Manual (BAM) 210 (January 1, 2020), pp 1-24.

However, the client has the primary responsibility for obtaining verification. BAM 201, p 18.

Petitioner was an ongoing FAP recipient when the Department initiated a routine review of her eligibility for ongoing benefits following Petitioner's filing of an online Renew Benefits form. Along with the Renew Benefits form, Petitioner submitted a copy of her tax return and a Schedule C tax form showing self-employment income and expenses.

Along with her FAP benefits, Petitioner is an ongoing recipient of Medicaid benefits under the Health Michigan Plan (HMP). For the purposes of determining eligibility for HMP benefits, the Schedule C is the required verification source for self-employment income and expenses as applied towards the household's Modified Adjusted Gross Income (MAGI).

For the purposes of determining eligibility for FAP benefits, countable self-employment income is only reduced by the deductions listed in BAM 502, which is more restrictive than the expense recognized by the IRS. Petitioner provided her tax return, which is the primary source of verification for self-employment income. Petitioner did not provide a DHS-432 Self-Employment Statement with receipts. Petitioner is not required to provide itemized receipts of her self-employment expenses, and the Department had sufficient verification material to determine Petitioner's eligibility for ongoing FAP benefits as directed by BEM 502.

However, without itemized receipts of self-employment expenses allowed by BEM 502, the Department is directed to apply a flat expense rate of 25% of the total proceeds. BEM 502, p 3.

Petitioner reported gross receipts from self-employment in the gross annual amount of \$[REDACTED]. Dividing this gross annual income by 12 months, and reducing that amount by 25% as directed by BEM 502, the Department determined Petitioner's prospective gross monthly income to be \$[REDACTED].

The monthly gross income limit for a household of four is \$2,790. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2019), p 1.

Although the Department's notice indicates that Petitioner was not eligible for FAP benefits based on her net income, the evidence supports a finding that she is not eligible based on her gross monthly income regardless of her other expenses.

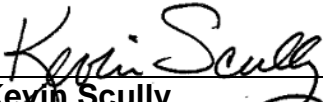
Petitioner reported to the Department that no one in the household is aged, blind, disabled, or a disabled veteran on her November 1, 2019, Renew Benefits form. One of Petitioner's children may be considered medically frail for the purposes of determining FAP work requirements, but this determination is not relevant if Petitioner does not meet the financial requirements of FAP.

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 closed Petitioner's Food Assistance Program (FAP) benefits effective December 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**

Tamara Morris  
125 E. Union St 7th Floor  
Flint, MI 48502

Genesee County (Union), DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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