



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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██████████, MI ██████████

Date Mailed: January 17, 2020  
MOAHR Docket No.: 19-012954  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 January 9, 2020, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator. Department Exhibits 1-9 were 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. On ██████████ 2019, Petitioner applied for FAP and MA.
2. On November 4, 2019, a Verification Checklist was sent to Petitioner requesting proof of property taxes.
3. On November 19, 2019, Notice of Case Action was sent to Petitioner approving him for \$169 FAP benefits for December 2019 and ongoing and denying FAP for November 2019 because Petitioner was over the asset limit.
4. On December 4, 2019, Petitioner requested hearing disputing the determination of FAP and MA benefits.

5. Petitioner's case was reviewed, and Petitioner was awarded \$63 in FAP for November 2019.
6. Petitioner was approved for MA after the request for hearing and stated at hearing that he was satisfied with the Department action regarding his MA case.
7. Petitioner provided proof that he paid property taxes to City of Detroit on August 2, 2019 in the amount of \$738.31. (Ex. 1, 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.

#### **Property Taxes, Assessments and Insurance**

Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554

#### **Verification Sources**

Acceptable verification sources include, but are **not** limited to:

- Mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company.
- Copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office.
- Cancelled checks, receipts or money order copies, if current. BEM 554

In this case, Petitioner testified at hearing that he was satisfied with the Department action with regard to his MA benefit. The only issue in dispute was whether Petitioner's property tax payment should be considered in determining his excess shelter deduction. Petitioner provided proof that he paid property taxes by submitting a copy of a check written to the City of Detroit Property Tax in the amount of \$738.31. The Department would be able to confirm this payment by reviewing county records and they should have done so. In addition, cancelled checks are specifically identified as an acceptable verification source in BEM 554. Therefore, the Department action to exclude property tax expense was improper and incorrect. 7 CFR 273.9(d)(6)(ii)(b)

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 Petitioner's FAP benefits.


**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. Reprocess Petitioner's FAP benefits going back to the date of application and consider the property taxes paid by Petitioner.
2. Issue a supplement if Petitioner is entitled to more benefit.

AM/nr

  
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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**

Jeanette Cowens  
2524 Clark Street  
Detroit, MI  
48209

Wayne 41 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

██████████ - via first class mail  
██████████  
██████████, MI  
██████████