



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: February 20, 2020  
MOAHR Docket No.: 19-012976  
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. The hearing was adjourned on January 8, 2020, and January 29, 2020. After due notice, a telephone hearing was held on February 18, 2020, from Lansing, Michigan. Petitioner was represented by her attorney Kathleen Halloran and Petitioner testified on her own behalf. The Department was represented by Assistance Attorney General Chantal B. Fennessey, and Maryam Hedgespeth testified on behalf of the Department.

### **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. On [REDACTED], 2019, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 7-12.
2. Petitioner reported on her [REDACTED], 2019, application for assistance that she was responsible for property taxes of \$700 per month. Exhibit A, p 12.
3. Department records indicate that Petitioner reported being responsible to pay property taxes and utility expenses during an eligibility interview on July 17, 2019. Exhibit B, pp 13-14.
4. The Department received a copy of a property tax bill for Petitioner's home showing a \$2,071.77 obligation. Exhibit C, p 17.

5. Petitioner received monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$956 as of July 1, 2019, and this amount later increased to \$971 as of January 1, 2020. Exhibit M, p 56.
6. In July of 2019, Petitioner was responsible for a \$135.50 monthly Medicare Part B Premium, but as of August of 2019, this premium was covered by Medicare Savings Program (MSP) assistance. Exhibit D, p 23, and Exhibit N, p 58.
7. On July 31, 2019, the Department notified Petitioner that she was eligible for a \$69 monthly allotment of Food Assistance Program (FAP) benefits for July of 2019, and \$93 in August of 2019. Exhibit E, pp 28-32.
8. On August 7, 2019, the Department notified Petitioner that she was eligible for a \$47 monthly allotment of Food Assistance Program (FAP) benefits effective September 1, 2019. Exhibit G, pp 33-37.
9. On September 7, 2019, the Department notified Petitioner that she was eligible for a \$43 monthly allotment of Food Assistance Program (FAP) benefits effective October 1, 2019. Exhibit J, pp 43-47.
10. On December 7, 2019, the Department notified Petitioner that she was eligible for a \$36 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2020. Exhibit L, pp 51-55.
11. On December 2, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits she is eligible for.

### **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).

On [REDACTED], 2019, the Department received Petitioner's application for FAP benefits as a household of one. Petitioner was receiving RSDI in the gross monthly amount of \$956, which was not disputed during the hearing, and this is her only source of income.

In July of 2019, Petitioner was responsible for a reoccurring Medicare Part B premium in the monthly amount of \$135.50. Petitioner was entitled to a deduction from her income for the amount that this qualified expense exceeded \$35. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (January 1, 2020), p 4.

Petitioner's monthly adjusted gross income of \$697 was determined by reducing her total monthly income by the \$158 standard deduction, and her \$101 medical deduction.

Petitioner reported being responsible for property taxes in the monthly amount of \$700 per month. Petitioner did not report being responsible for home insurance on her July 9, 2019, application form, or during her July 17, 2019, eligibility interview.

However, the verification documents filed by Petitioner show an annual property tax obligation of \$2,017.77, and no verification of a home insurance premium obligation was provided to the Department.

The Department determined that Petitioner was entitled to a \$368 shelter deduction, which was determined by reducing the total of her property tax obligation divided by 12 months and the standard monthly heat and utility deduction of \$543 by 50% of her adjusted gross income.

Petitioner's net monthly income of \$329 was determined by reducing her adjusted gross income by her shelter deduction. A household of one with a net income of \$329 is entitled to a \$93 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 5. This monthly allotment was prorated for July of 2019, based on a July 9, 2019, application date, and the 23 days she was eligible for benefits that month. BEM 556, p 6.

As of September 1, 2019, Petitioner no longer had an obligation to pay her Medicare Part B premiums, and this expense was removed from the FAP budget. Petitioner's shelter expenses remained the same, and her net income increased to \$481. Therefore, as of September 1, 2019, Petitioner was eligible for a \$47 monthly allotment of FAP benefits. RFT, 260, p 7.

As of October 1, 2019, Petitioner's income and expenses remained the same, but the standard deduction increased to \$161, and the heat and utility deduction decreased to \$518. Department of Health and Human Services Reference Table Manual (RFT) 255 (October 1, 2019), p 1. This increased Petitioner's net monthly income to \$501, and as of October 1, 2019, a household of one with a net income of \$501 was entitled to a \$43 monthly allotment of FAP benefits. RFT 260 (October 1, 2019), p 7.

Petitioner's gross monthly income increased to \$971 as of January 1, 2020, which was the only change to her circumstances since October 1, 2019. This changed Petitioner's net monthly income to \$524, which entitles a household of one to a \$36 monthly allotment of FAP benefits. RFT 260, p 8.

Petitioner's attorney argued that the Department did not properly account for all of the countable shelter expenses she is obligated to pay. Petitioner is responsible for current property taxes of \$2,071.77, and apparently is responsible for a considerable amount of past due property taxes. Petitioner provided a document showing that she had agreed to make a down payment of \$1,086, and a \$250 per month payment towards her property tax obligation commencing May 3, 2016. No evidence was presented on the record that this document was provided to the Department before the hearing request was submitted.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2019), p 14.

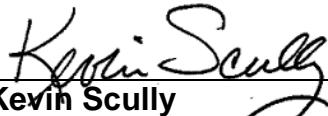
The hearing record supports a finding that Respondent did not report her past due property tax obligation, and that the Department determined her obligation to pay shelter expenses based on the best information available, which was the verification document she filed with the Department. Further, the document showing a \$250 monthly payment towards past due property taxes as of 2016, is not sufficient verification of Petitioner's current obligation to pay those taxes. No evidence that Petitioner had reported an obligation to pay home insurance to the Department or that such an obligation was verified.

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 the amount of her monthly allotment of Food Assistance Program (FAP) benefits from July 9, 2019, through January 1, 2020.

**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**

Macomb County (District 20) via electronic mail

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

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**Petitioner**

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