



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 27, 2020  
MOAHR Docket No.: 19-013357  
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 23, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearing Facilitator. Department Exhibit 1, pp. 1-17 was received and admitted.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits due to excess income?

**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 a recipient of FAP benefits.
2. On November 21, 2019, Notice of Case Action was sent to Petitioner informing her that FAP benefits would close effective December 1, 2019, due to excess income.
3. On December 18, 2019, Petitioner requested hearing disputing the closure of FAP benefits.
4. Petitioner receives employment income of \$████████ per month.
5. Petitioner receives child support in the amount of \$████████ per month.

## 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.

### **Child Support Income Past Three Months**

- Use the average of child support payments received in the **past three calendar months**, unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue. BEM 505

In this case, Petitioner did not dispute the amount of employment income and child support she receives. Petitioner is over both the gross income limit and the net income limit for FAP. She receives \$[REDACTED] in monthly gross income, well over the \$1,832 monthly limit. Therefore, the closure due to excess income was proper and correct. RFT 250, 7 CFR 273.9


Petitioner stated that some of the money reflected in her income information was for mileage reimbursement. Petitioner provided no proof that any of her income was for mileage. It should also be noted that Petitioner was over \$1,000 over the income limit so unless she received \$1,000 for mileage in a single month then she would still be over the income limit. Petitioner also asserted that her child support income was irregular due to arrearages being included. Department policy directs that an average of the previous three months be used to determine FAP monthly amount. BEM 505 That was how the Department calculated Petitioner's child support income and therefore was proper and correct. Again, it should be noted that Petitioner was close to \$1,000 over the income limit and even if the payments towards arrearages were removed, Petitioner would have been well over the income limit.

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 FAP case due to excess income.

**DECISION AND ORDER**

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

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**

Sharnita Grant  
25637 Ecorse Rd.  
Taylor, MI  
48180

Wayne 18 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

████████████████████ - via electronic mail

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████████, MI

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