



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: January 6, 2020  
MOAHR Docket No.: 19-012675 & 19-013040  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's requests for hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 2, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Jeffrey Robinson, Family Independence Manager, and Maryjo Bagley, Eligibility Specialist, appear as its representatives. Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. A 25-page packet of documents provided by the Department in docket 19-012675 was admitted as the Department's Exhibit A, and a 33-page packet of documents provided by the Department in docket 19-013040 was admitted as the Department's Exhibit B.

### **ISSUES**

Did the Department properly determine that Petitioner was eligible for a Food Assistance Program (FAP) benefit of \$16.00 for December 2019?

Did the Department properly determine that Petitioner was ineligible for Family Independence Program (FIP) assistance?

### **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 a FAP recipient.

2. In November 2019, Petitioner's son lived with Petitioner in her home until he moved out on November 22, 2019. Petitioner's son had income from employment, and he paid Petitioner [REDACTED] per month for housing. The Department included Petitioner's son in Petitioner's group and budgeted his income. The Department determined that Petitioner was eligible for a FAP benefit of \$16.00 per month.
3. On November 22, 2019, Petitioner reported to the Department that her son moved out of her home.
4. The Department removed Petitioner's son from her group and redetermined her eligibility. The Department determined that Petitioner was eligible for an increase effective January 1, 2020.
5. On November 26, 2019, the Department notified Petitioner that she was eligible for an increased FAP benefit of \$194.00 per month effective January 1, 2020.
6. On December 5, 2019, the Department issued Petitioner a FAP benefit of \$16.00 per month.
7. Petitioner disputes the Department's decision to find her eligible for an increase effective January 1, 2020, because she believes that her increase should have been effective December 2019.
8. Petitioner applied for FIP assistance from the Department, and Petitioner asserted in her application that she was disabled.
9. The Department determined that Petitioner was ineligible for FIP because she did not have a dependent child living in her home. However, the Department determined that Petitioner may be eligible for cash assistance through State Disability Assistance (SDA). In order to determine whether Petitioner is eligible for SDA, the Department mailed Petitioner a medical determination verification checklist (DHS-3503-MRT), verification checklist (DHS-0049-F), a medical social questionnaire (DHS-1555), and an authorization to release protected health information.
10. Petitioner disputes the Department's decision to find her ineligible for FIP.

### **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).

### **FOOD ASSISTANCE**

The Food Assistance Program (FAP) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner reported a change in her group members to the Department on November 22, 2019, and the Department processed the change and found Petitioner eligible for an increase effective January 1, 2020. The Department's decision was not in accordance with BAM 220 (April 1, 2019) and 7 CFR 273.12(c)(1)(i). For changes reported which result in an increase in FAP benefits, the Department must make the change effective no later than the first allotment issued ten days after the date the change was reported. 7 CFR 273.12(c)(1)(i). Since Petitioner reported a change on November 22, 2019, which would result in an increase in her FAP benefits, and since her next allotment was not to be issued until December 5, 2019, the Department was required to make the change so that it would affect her December issuance because the change was reported more than ten days prior to the December issuance.

### **CASH ASSISTANCE**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Petitioner applied for FIP and the Department determined that Petitioner was ineligible for FIP because she did not have a dependent child living in her home. The Department's decision was in accordance with BEM 209 (July 1, 2017). In order to be eligible for FIP, a household must have a FIP eligibility determination group (EDG) as defined in BEM 210 (April 1, 2019). A FIP EDG must include a dependent child who lives with a legal parent, stepparent, or other qualifying caretaker. BEM 210, p. 1. Thus, a household must have a dependent child living in the home in order for a group to be eligible for FIP. Since Petitioner did not have a dependent child living in her home, the Department properly found Petitioner ineligible for FIP.

### **DECISION AND ORDER**

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 (a) the Department did not act in accordance with its policies and the applicable law when it determined Petitioner's FAP benefit amount for December 2019, and (b) the Department did act in accordance with its policies and the applicable law when it determined Petitioner was ineligible for FIP.

IT IS ORDERED the Department's decision is AFFIRMED IN PART and REVERSED IN PART. The Department shall begin to implement this decision within ten days.

JK/ml



---

Jeffrey Kemm  
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**

Linda Gooden  
25620 W. 8 Mile Rd.  
Southfield, MI 48033

Oakland (District 3) County DHHS – Via  
Electronic Mail

BSC4 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

G. Vail – Via Electronic Mail

B. Cabanaw – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED]  
MI [REDACTED]