



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: February 28, 2020  
MOAHR Docket No.: 20-000855  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 February 26, 2020, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Lashana Threlkeld, Assistance Payments Supervisor and Erica Atkins, Assistance Payments Worker.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit eligibility?

### **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 January 7, 2020, an application for FAP benefits was submitted on behalf of Petitioner.
2. Petitioner was the sole member of her household.
3. Petitioner had unearned income in the form of Supplemental Security Income (SSI) benefits in the monthly gross amount of \$783 (Exhibit A, pp. 23-25).
4. Petitioner had unearned income in the form of State SSI Payment (SSP) benefits (Exhibit A, p. 26).

5. On January 13, 2020, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that she was eligible for FAP benefits in the monthly amount of \$16 (Exhibit A, pp. 14-18).
6. On [REDACTED], 2020, Petitioner submitted a request for hearing disputing the Department's actions.
7. On January 21, 2020, the Department sent Petitioner a NOCA informing her that her FAP benefit amount was increasing to \$33 per month effective January 7, 2020.

### **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.

In this case, Petitioner submitted an application for FAP benefits on January 7, 2020. The Department initially determined that Petitioner was entitled to FAP benefits in the monthly amount of \$16. Subsequent to Petitioner's request for hearing, the Department reviewed Petitioner's FAP benefit case. The Department discovered that Petitioner had submitted verification of her housing expense (Exhibit A, p. 10). The Department added the expense into Petitioner's FAP budget. The Department determined that Petitioner was eligible for FAP benefits in the monthly amount of \$33. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 11-13).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. For FAP benefit cases, the Department includes the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503 (January 2020), p. 34. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department will include the monthly SSP payment amount as unearned income. BEM 503, p. 35.

The Department testified at the hearing that Petitioner's State Online Query (SOLQ) report showed she receives \$783 in gross monthly SSI benefits. However, Petitioner's

FAP budget included \$804 of unearned income. The Department was advised to submit the SOLQ subsequent to the hearing for review. Upon review of the SOLQ, Petitioner does receive \$783 in SSI benefits. The Department also sent documentation related to Petitioner's SSP benefits (Exhibit A, p. 26). Per the document provided, Petitioner receives \$7 in monthly SSP benefits. There are handwritten notes on the document showing that the Department multiplied the \$7 figure by three to reach the \$804 dollar figure. It is unclear as to why the Department multiplied the figure by three. If Petitioner is receiving \$7 per month in SSP benefits, as the document shows, then only \$7 should be included in her monthly FAP budget, making her total monthly unearned income \$790. Therefore, the Department failed to establish that it properly calculated Petitioner's unearned income. As it follows, the Department failed to establish that it properly calculated Petitioner's FAP benefit amount.

### **DECISION AND ORDER**

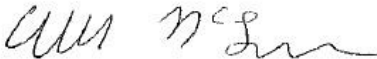
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner's FAP benefit eligibility.

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. Redetermine Petitioner's FAP eligibility as of January 7, 2020;
2. If Petitioner is eligible for additional FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its FAP decision in writing.

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**Ellen McLemore**  
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

**Via Email:**

MDHHS-Oakland-4-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

**Petitioner –  
Via First-Class Mail:**

[REDACTED]

**Authorized Hearing Rep. –  
Via First-Class Mail:**

[REDACTED]