



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: September 29, 2020  
MOAHR Docket No.: 20-005501  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **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 September 23, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Angela Drost, Assistance Payments Supervisor and Jordan Dervyn, Eligibility Specialist.

### **ISSUE**

Did the 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. Petitioner was a recipient of FAP benefits.
2. On July 18, 2020, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that her FAP benefits would be decreased to \$16.00 per month effective August 1, 2020, due to not having a rental expense or heat and utility expense with an unearned income of \$787. Department Exhibit 1, pgs. 22-26.
3. On July 28, 2020, the Department Caseworker received a new rental expense verification of \$400.00. Department Exhibit 1, pgs. 18-19.

4. On August 4, 2020, the Department Caseworker calculated a new budget for FAP eligibility based on the rental expense and no heat and utility standard with unearned income. Department Exhibit 1, pgs. 11-14.
5. On August 4, 2020, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that effective September 1, 2020, that she would have an increase in her FAP benefits to \$32.00. Department Exhibit 1, pgs. 28-32.
6. On August 18, 2020, the Department received a hearing request from Petitioner, contesting the Department's negative action.

### **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 was a recipient of FAP benefits. On July 18, 2020, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that her FAP benefits would be decreased to \$16.00 per month effective August 1, 2020, due to not having a rental expense or heat and utility expense with an unearned income of \$787. Department Exhibit 1, pgs. 22-26.

On July 28, 2020, the Department Caseworker received a new rental expense verification of \$400.00. Department Exhibit 1, pgs. 18-19. On August 4, 2020, the Department Caseworker calculated a new budget for FAP eligibility based on the rental expense and no heat and utility standard with unearned income. Department Exhibit 1, pgs. 11-14. On August 4, 2020, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that effective September 1, 2020, that she would have an increase in her FAP benefits to \$32.00. Department Exhibit 1, pgs. 28-32. On August 18, 2020, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BEM 105, 110, 130, 210, 220, and 600. BAM 500, 503, 505, 550, 554, and 556. RFT 250, 255, and 260.

As a result of excess income, Petitioner had a decrease in FAP benefits. Petitioner had unearned income of \$1,051. After deductions from her gross income of \$1,051 of \$149 standard deduction for an adjusted gross income of \$902. Petitioner was given a total shelter deduction of \$1,157, resulting from a housing expense of \$617.82 and heat and

utility standard of \$539. Petitioner was given an adjusted excess shelter deduction of \$504, with a total shelter deduction of \$1,157 minus 50% of adjusted gross income of \$706. Petitioner had a net income of \$398, which was the adjusted gross income of \$902 minus the excess shelter deduction of \$504. With a net income of \$398, the Petitioner qualified with a household group size of 1 for a maximum benefit of \$194 plus \$0 in economic recovery minus 30% of net income of \$120, resulting in a net benefit amount of \$74. Department Exhibit 1, pgs. 9-12.

As a result of rental expenses, Petitioner had an increase in FAP benefits. Petitioner had unearned income of \$787 from Social Security SSI of \$347 and RSDI of \$440. After deductions from her gross income of \$787 of \$161 standard deduction for an adjusted gross income of \$626. Petitioner was given a total shelter deduction of \$400, resulting from a housing expense of \$400 and heat and utility standard of \$0. Petitioner was given an adjusted excess shelter deduction of \$87, with a total shelter deduction of \$400 minus 50% of adjusted gross income of \$313. Petitioner had a net income of \$539, which was the adjusted gross income of \$626 minus the excess shelter deduction of \$87. With a net income of \$539, Petitioner qualified with a household group size of 1 for a maximum benefit of \$194 plus \$0 in economic recovery minus 30% of net income of \$162, resulting in a net benefit amount of \$32. Department Exhibit 1, pgs. 11-13.

During the hearing, the Department stated that Petitioner was no longer eligible for the heat and utility standard because she did not reapply for LIHEAP for this year. She was only eligible for the rental housing expense of \$400. Petitioner is eligible to reapply for LIHEAP, which may result in an increase in the FAP benefits. In addition, Petitioner stated that she had medical expenses not covered by Medicaid. She was instructed to submit written verifications so that the expenses could be used to increase her FAP benefits. However, she submitted over the counter expenses that could not be used without her treating physician's verification that those expenses were medical required. To this date, she has not provided the physician's verification, so the Department has been unable to count those medical expenses.

**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 acted in accordance with Department policy when it determined the Petitioner's eligibility for FAP benefits based on the verifications received of unearned income and rental expenses resulting in FAP benefits of \$32 per month.

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

CF/hb



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**Carmen G. Fahie**  
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**

Kent County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic

**Petitioner**

[REDACTED], MI [REDACTED]