



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: March 5, 2019  
MAHS Docket No.: 19-000834  
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 March 4, 2019, from Detroit, Michigan. Petitioner was present with her daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearing Facilitator.

**ISSUE**

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

**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 14, 2019, Petitioner submitted an application for FAP benefits (Exhibit A).
2. Petitioner had unearned income in the form of Supplemental Security Income (SSI) in the gross amount of \$ [REDACTED] per month and State SSI Payment (SSP) benefits in the gross amount of \$ [REDACTED] per month.
3. Petitioner was the sole member of her FAP group.
4. On January 18, 2019, the Department sent Petitioner a Notice of Case Action stating her FAP benefit amount would be \$ [REDACTED] effective February 1, 2019, ongoing (Exhibit B).

5. On January 25, 2019, Petitioner submitted a request for hearing disputing the Department's 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 submitted a request for hearing disputing the Department's calculation of her FAP benefit amount. On January 14, 2019, Petitioner submitted an application for FAP benefits. On January 18, 2019, the Department sent Petitioner a Notice of Case action informing her that her FAP benefit amount would be \$█ per month, effective February 1, 2019, ongoing. The Department presented a FAP issuance budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit C).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1-5. According to the budget provided, the Department determined Petitioner's unearned income was \$█. Petitioner received \$█ per month in SSP benefits. The Department presented Petitioner's State Online Query (SOLQ) report which showed Petitioner's SSI benefit amount (Exhibit D). According to the SOLQ, Petitioner's gross payable SSI benefit amount was \$█ per month. Petitioner's SSI benefits were reduced by \$█ per month for a previous overpayment that was being recovered. As such, Petitioner's current payable amount was \$█ per month. The Department calculated Petitioner's unearned income amount using the gross payable amount of \$█ in SSI benefits with the \$█ monthly SSP payment.

Supplemental Security Income (SSI) is a benefit administered by the Social Security Administration (SSA). SSI is a means-tested program that can be received based on age, disability or blindness. BEM 503 (January 2019), p. 32. The Department counts the gross amount of current SSA-issued SSI as unearned income. SSI amounts withheld to recoup overpayments due to an Intentional Program Violation (IPV) are also included in the gross amount. BEM 503, p. 33. Amounts deducted by an issuing agency to recover

a previous overpayment or ineligible payment are not part of gross income. BEM 500 (July 2017), p. 6. These amounts are excluded as income. BEM 550, p. 6.

There was no evidence presented that the amount that was being recouped was due to an IPV. Therefore, the Department improperly used the gross payable amount of \$[REDACTED] per month. As such, the Department failed to establish it properly calculated Petitioner's unearned income amount. Thus, the Department failed to establish it properly calculated Petitioner's FAP benefit amount.

### **DECISION AND ORDER**

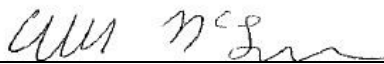
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner's FAP benefit amount.

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 February 1, 2019, ongoing;
2. If Petitioner is entitled to additional FAP benefits, issue supplements she is entitled to receive as of February 1, 2019, ongoing; and
3. Notify Petitioner of its 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Keisha Koger-Roper  
MDHHS-Wayne-55-Hearings

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

BSC4  
M Holden  
D Sweeney