



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: June 12, 2019  
MOAHR Docket No.: 19-004954  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **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 3-way telephone hearing was held on June 12, 2019, from Detroit, Michigan. Petitioner did not appear for the hearing. [REDACTED], Petitioner's mother and guardian, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Dawn McCoy, hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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. As of May 2019, Petitioner was an ongoing recipient of FAP benefits through the Michigan Combined Application Project (MiCap).
2. On an unspecified date on or shortly before May 2, 2019, Petitioner's AHR reported to MDHHS that Petitioner was responsible for housing costs of \$721/month and no utility obligations.
3. On May 2, 2019, MDHHS determined Petitioner was eligible to receive [REDACTED] in FAP benefits effective June 2019.

4. On May 8, 2019, Petitioner's AHR verbally requested a hearing to dispute Petitioner's reduction in FAP benefits to \$[REDACTED]

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR verbally requested a hearing to dispute a reduction in FAP benefits to \$[REDACTED].<sup>1</sup> A Notice of Case Action dated May 2, 2019, stated that Petitioner was eligible to receive \$[REDACTED] in FAP benefits beginning June 2019 due to a reduction in Petitioner's housing costs. Exhibit A, pp. 8-11.

MiCAP is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). BEM 618 (January 2019), p. 1. MiCAP is a series of waivers that allows MDHHS to issue FAP benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618 (January 2019), p. 1.

The amount of FAP benefits that MiCAP individuals receive is determined by their total shelter expenses, (shelter plus heat and utility expenses). *Id.* p. 3. If an individual's total shelter expenses are below \$1,000, the FAP benefit is \$[REDACTED] per month. *Id.* If the total shelter expenses are equal to or exceed \$1,000, the benefit amount is \$190 per month. *Id.*

It was not disputed that Petitioner's AHR reported to MDHHS on or shortly before May 2, 2019, a change in Petitioner's address and living circumstances. It was also not disputed that Petitioner's AHR reported to MDHHS that Petitioner was responsible for a monthly rent of \$721 which encompassed all utilities. Based on Petitioner's AHR reporting, Petitioner would be entitled to \$[REDACTED] in FAP benefits because Petitioner's living expenses were less than \$1,000.

During the hearing, Petitioner's AHR testified that her son might be responsible for a portion of one or more utilities. Petitioner's AHR admitted her testimony was the first time she reported the possibility of her son's utility obligation to MDHHS. Even if true and later verified, Petitioner's AHR's testimony impacts Petitioner's FAP eligibility in the future but not the determination made by MDHHS on May 2, 2019.<sup>2</sup> Based on the evidence, it is found that MDHHS properly determined Petitioner to be eligible for \$[REDACTED] in FAP benefits beginning June 2019.

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<sup>1</sup> Verbal hearing requests are allowed for FAP benefits (see BAM 600).

<sup>2</sup> BAM 220 states that non-income changes resulting in an increase in FAP benefits are to be effective no later than the first allotment issued 10 days after the reporting (assuming the change is timely verified).

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$[REDACTED] in FAP benefits beginning June 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



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**Christian Gardocki**  
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**

Nicolette Vanhavel  
MDHHS-HK-PF-Hearings

**Authorized Hearing Rep.**

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

**Petitioner**

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

BSC4  
M Holden  
D Sweeney