



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 28, 2019  
MOAHR Docket No.: 19-005449  
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 June 24, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Maia Elvine-Fair, Assistance Payments Supervisor and Mark McBride, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's May 2019 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. Petitioner was an ongoing FAP recipient.
2. Petitioner submitted verification of medical expenses between March 21, 2019 and April 23, 2019 (Exhibit A, pp. 5-6).
3. The Department determined Petitioner was entitled to FAP benefits in the amount of \$84 for May 2019.
4. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing the Department's her FAP benefit amount for May 2019.

## **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 disputed the Department's calculation of her May 2019 FAP benefit amount. Specifically, Petitioner argued that the Department did not properly calculate her medical expense deduction.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554 (January 2017), p. 1. When budgeting expenses, Department policy requires that expenses are used from the same calendar month as the month for which benefits are being determined. BEM 554, p. 3. As an example, policy states June expenses are used to determine June's benefits. BEM 554, p. 3. However, expenses remain unchanged until the FAP group reports a change. BEM 554, p. 3. The Department must act on a change reported by means other than tape match within 10 days of becoming aware of the change. BAM 220 (April 2017), p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 7.

The Department presented Petitioner's May 2019 FAP-Medical Expense Deduction summary. The summary shows 11 medical expenses that were budgeted for May 2019, in the amount of \$187.66. Each expense included in the summary shows the amount that was budgeted, the expense type and the date on which the expense was incurred. With the \$35 exclusion, the Department determined Petitioner was entitled to a medical deduction of \$135.

Petitioner argued that the Department did not include transportation expenses that were incurred on March 7, 2019, in the amount of \$15; March 8, 2019, in the amount of \$32; April 9, 2019, in the amount of \$6 and April 19, 2019, in the amount of \$6. Petitioner also alleged that she submitted verification of a medical expense incurred on March 8, 2019, in the amount of \$15.77.

The Department testified that Petitioner is provided with an ongoing medical expense of \$49.38 for transportation costs. Petitioner was advised that the ongoing expense covers her first three trips in any given month (Exhibit A, p. 19). Petitioner was notified that if she had more than three trips per month, she would need to verify the expenses and they would be included in her FAP budget. The Department testified that the transportation expenses that Petitioner argued were not budgeted, were the three trips that were included as an ongoing expense. However, the Department acknowledged that it received verification of the medical expense incurred on March 8, 2019. The Department conceded it was not budgeted. Petitioner testified that she submitted verification of the expense on April 11, 2019. The Department stated Petitioner's May 2019 FAP benefits were certified on April 30, 2019. Per policy, the expense should have been included in May 2019's FAP budget. As such, the Department failed to establish it properly calculated Petitioner's medical expense deduction. As such, the Department failed to establish it properly calculated Petitioner's May 2019 FAP budget.

### **DECISION AND ORDER**

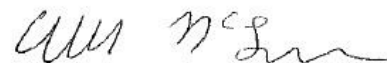
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's May 2019 FAP budget 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 May 2019 FAP benefit amount;
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.

EM/cg



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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-Washtenaw-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

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

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