



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: September 24, 2019  
MOAHR Docket No.: 19-008011  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 19, 2019, from Lansing, Michigan. Petitioner represented himself and his mother [REDACTED] [REDACTED] testified on his behalf. The Department of Health and Human Services was represented by Susan Forman.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

### **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 Food Assistance Program (FAP) recipient as a group of one and as of June 1, 2019, he was receiving a \$157 monthly allotment of benefits. Exhibit A, p 14.
2. Petitioner receives monthly income in the gross monthly amount of \$780.
3. Petitioner is responsible for rent in the monthly amount of \$275.
4. Petitioner's obligation for utilities is combined with his monthly housing expense. Exhibit A, pp 10-12.
5. On July 20, 2019, the Department notified Petitioner that he was eligible for a \$15 monthly allotment of Food Assistance Program (FAP) benefits effective July 1, 2019. Exhibit A, pp 21-25.

6. On July 22, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits he was receiving. Exhibit A, pp 3-4.

### **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.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (April 1, 2019), p 14.

The heat/utility standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups whose heat is included in their rent may still qualify for the heat/utility standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 400, p 15.

Petitioner was an ongoing FAP recipient as a group of one as of June 1, 2019, and he was receiving a \$157 monthly allotment of FAP benefits. Department records indicate that Petitioner had received a LIHEAP payment exceeding \$20.01 in the previous 12 months, and the heat/utility standard deduction had been applied towards his eligibility for FAP benefits.

On July 20, 2019, the Department determined that Petitioner had not received a LIHEAP payment exceeding \$20.01 in the previous 12 months, and that he was not otherwise entitled to the heat/utility deduction because utilities are included in his monthly rent obligation. The LIHEAP payments are verified by the Department electronically through the Department's electronic database and no evidence was presented on the record that Petitioner has received a LIHEAP payment in the previous 12 months. As a result of the heat/utility deduction being removed from his FAP budget, Petitioner's monthly allotment of FAP benefits was reduced to \$15.

Petitioner receives a gross monthly income of \$780, which was not disputed during the hearing. Petitioner's adjusted gross income of \$622 was determined by reducing his total monthly income by the \$158 standard deduction.

Petitioner's monthly rent of \$257 is less than 50% of his adjusted gross income. The evidence supports a finding that no other shelter expenses were claimed or verified as of July 20, 2019. Therefore, Petitioner is not entitled to a deduction for shelter deduction.

Since Petitioner does not received a shelter deduction, his net monthly income is the same as his adjusted gross income. A group of one with a net income of \$1,012 is entitled to a \$15 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 14.

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 Petitioner's eligibility for the Food Assistance Program (FAP).

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**Kevin Scully**  
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**

Alison Gordon  
430 Barfield Drive  
Hastings, MI 49058

Barry County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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