



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], MI [REDACTED]

Date Mailed: September 12, 2019  
MOAHR Docket No.: 19-008591  
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 5, 2019, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Kim Reed.

### **ISSUE**

Did the Department of Health and Human Services (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 is an ongoing Food Assistance Program (FAP) recipient as a group of one.
2. Petitioner receives monthly rental income in the gross monthly amount of \$68. Exhibit A, p 18.
3. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,213. Exhibit A, p 13.
4. Petitioner is responsible for monthly Medicare Part B premiums in the monthly amount of \$135.50. Exhibit A, p 13.
5. On July 29, 2019, the Department received verification of medical expenses paid by Petitioner totaling \$11.78. Exhibit A, pp 13-15.

6. Petitioner is responsible for a monthly mortgage payment of \$528.18, and he is responsible for utilities separate from his mortgage payment. Exhibit A, p 16.
7. On July 30, 2019, the Department notified Petitioner that he was eligible for a \$64 monthly allotment of Food Assistance Program (FAP) benefits effective August 1, 2019. Exhibit A, pp 4-8.
8. On August 2, 2019, the Department received Petitioner's request for a hearing. Exhibit A, p 3.

### **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.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

In-home rental is when a landlord rents out part of his own dwelling to another individual. The Department counts the gross rent payment minus expenses as earned income from self-employment. Expenses are 60% of the rental payment or the actual expenses if the landlord chooses to claim and verify the expenses. Department of Health and Human Services Bridges Eligibility Manual (BEM) 504 (January 1, 2018), pp 1-2.

The Department received verification that Petitioner is receiving a \$40 weekly payment as rent for staying in his home. The Department determined that Petitioner receives countable self-employment in the gross monthly amount of \$68 by multiplying this weekly income by the 4.3 conversion factor as directed by BEM 505, then reducing that amount by 60% as directed by BEM 504 because actual expenses were not verified.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons.

A FAP group is not required to but may voluntarily report changes during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8 – 9.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner is entitled to a deduction from his income for out of pocket medical expenses of \$112, which was determined by adding his Medicare Part B premium to his \$11.78 verified one-time medical expenses, then reducing that amount by \$35 as directed by BEM 556.

Petitioner receives monthly RSDI in the gross monthly amount of \$1,281. Petitioner's adjusted gross income of \$997 was determined by reducing the self-employment income by 20%, and total income by the \$158 standard deduction and \$112 medical expense deduction.

As a disabled person, Petitioner is entitled to a \$573 shelter deduction, which exceeds the shelter deduction maximum. Department of Health and Human Services Reference Table Manual (RFT) 255 (October 1, 2018), p 1. This amount was determined by reducing the total of his monthly mortgage payment and the standard \$532 heat and utility deduction by 50% of his adjusted gross income.

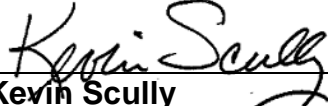
Petitioner's net income of \$424 was determined by reducing his adjusted gross income by his shelter deduction. A group of one with a net income of \$424 is entitled to a \$64 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 6.

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 Food Assistance Program (FAP) benefits effective August 1, 2019.

### **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**

Kimberly Reed  
609 North State Street  
PO Box 278  
Stanton, MI 48888

Montcalm County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]