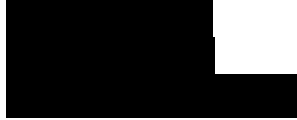




GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: December 5, 2019  
MOAHR Docket No.: 19-010377  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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, an In-person hearing was held on November 26, 2019, from Ionia, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Lindsey Colon, AP Supervisor. Department Exhibit 1, pp. 1-41 was received and admitted. Petitioner Exhibit A, p. 1 was received and admitted.

### **ISSUE**

Did the Department properly determine Petitioner's 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 a recipient of FAP benefits receiving \$88 per month.
2. On September 7, 2019, Notice of Case Action was sent to Petitioner informing her that her FAP benefits would be reduced to \$84 per month effective October 1, 2019, following mass update.
3. On September 18, 2019, Petitioner requested hearing disputing the reduction of FAP benefits.
4. In a Prehearing Conference Petitioner raised issues with regard to home maintenance repairs not being budgeted.

5. On October 28, 2019, A Verification Checklist was sent to Petitioner requesting verification of home repair expense.
6. Petitioner did not submit verification of qualified home repair expense.

### **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.

#### **ACTUAL UTILITIES**

Actual utility expenses will be used for the following expenses only:

- Utility installation charges (not deposits).
- Water well installation and maintenance.
- Septic installation and maintenance.

**Note:** Do **not** allow an actual utility expense for reconnection fees after service has been turned off for the same people at the same address.

#### **Verification**

Verify the actual expense.

#### **Verification Sources**

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider.
- Collateral contact with the provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

BEM 554, p.24

#### **Home Repair Expenses**

Allow charges for repair of a home which was substantially damaged or destroyed due to a natural disaster such as fire or flood.

**Note:** Do **not** allow any portion of an expense that has been or will be reimbursed by any source. BEM 554, p.14

In this case, Petitioner did not verify home repair expense, despite verification being requested of her on October 28, 2019. Petitioner acknowledged that her home repair

needs were not the result of a fire or natural disaster. Petitioner raised issues with regard to expenses she incurred in repairing her well and septic. Petitioner incurred those expenses more than 90 days prior to her request for hearing and did not verify those expenses with the Department at the time the expenses were incurred, therefore Petitioner is not entitled to those expenses being included in her shelter expenses. BEM 554, 7 CFR 273.6(ii)(C)

Petitioner testified that she has significant nutritional needs and that she is concerned about muscle waste if she does not receive proper nutrition. Petitioner's nutritional needs are not considered in determining her FAP benefit amount.


The Department agreed to review Petitioner's property tax expense and to consider Petitioner's eligibility for MiCAP FAP benefits. Those issues were not raised in Petitioner's request for hearing and were not a subject of this hearing.

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 FAP benefit.

#### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

AM/nr

  
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Aaron McClintic  
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**

Melissa Brandt  
920 East Lincoln St  
Ionia, MI  
48846

Ionia County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

