



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: November 15, 2019  
MOAHR Docket No.: 19-011357  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

### **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 November 13, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator. During the hearing, a 40-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-40.

### **ISSUE**

Did the Department properly deny Petitioner's October 2, 2019 application 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. On [REDACTED], 2019, Petitioner submitted to the Department an application for FAP benefits. Exhibit A, pp. 7-14.
2. Petitioner lives in a household that consists of herself and her 21-year old son, who is a college student.
3. Petitioner's monthly income consists of contributions made by her husband, from whom she is separated. Those contributions total \$2,500 per month.
4. Petitioner has monthly housing costs of \$1,400 and is responsible for paying utilities, including for heat.

5. On October 8, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was ineligible for FAP benefits. The determination was based on the Department's erroneous inflation of Petitioner's monthly income. For some reason, the Department determined that Petitioner had monthly income of \$3,690 rather than \$2,500. Exhibit A, pp. 15-17.
6. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of her October 2, 2019 FAP application.

### **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 has objected to the Department's October 8, 2019 denial of Petitioner's [REDACTED], 2019 FAP application. During the hearing, the Department conceded that it used incorrectly inflated income information when determining Petitioner's eligibility, or lack thereof. The Department budgeted monthly income of \$3,690 instead of Petitioner's actual monthly income of \$2,500.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits, and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. Additionally, the FAP calculation takes into consideration certain expenses and other deductions that apply to reach a final net income for the purposes of determining the monthly FAP benefit amount.

First, the standard deduction of \$161 must be removed from Petitioner's gross income of \$2,500, resulting in an adjusted gross income of \$2,339. RFT 255 (October 2019), p. 1. Petitioner does not qualify for the child care, medical, or child support deductions as she does not report having any related expenses.

However, Petitioner is eligible for the excess shelter deduction. Petitioner has monthly housing costs of \$1,400. Petitioner was also eligible for the h/u standard of \$518 based on the fact that Petitioner pays for heat at her home. RFT 255, p. 1. Adding the

expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$1,918.

The excess shelter deduction is calculated by subtracting from the \$1,918 one half of the adjusted gross income of \$2,339, which is \$1,169. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$749. Petitioner's net income of is calculated by subtracting the excess shelter deduction (\$749) from the adjusted gross income (\$2,339). That leaves Petitioner with a net income of \$1,590.

The Food Assistant Issuance Table shows \$16 in benefits for \$1,590 net income for a household of one. RFT 260 (October 2019), p. 1. This is not the amount determined by the Department.

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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2019 application for FAP benefits.

### **DECISION AND ORDER**

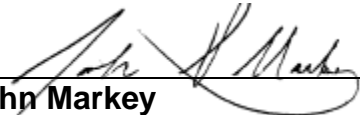
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's [REDACTED], 2019 FAP application;
2. If any eligibility-related factor is unclear, incomplete, inconsistent, or contradictory, follow Department policy regarding requesting and processing verifications;
3. Determine Petitioner's eligibility for FAP benefits from the date of application, ongoing;
4. If Petitioner is found to be eligible for additional benefits that were not provided, ensure that a prompt supplement is issued; and

5. Notify Petitioner in writing of its decisions.

JM/tm



---

**John Markey**  
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**

Tamara Morris  
12 E. Union St 7th Floor  
Flint, MI  
4802

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: FAP: M. Holden; D. Sweeney  
AP Specialist Genesee (2)