



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: December 4, 2019  
MOAHR Docket No.: 19-011723  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

### **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 27, 2019, from Lansing, Michigan. The Petitioner was represented by Petitioner, [REDACTED]. Interpreter/Translator [REDACTED] assisted Petitioner, as Arabic language translator. The Department of Health and Human Services (Department) was represented by Richkell Curney, Lead Worker.

Respondent's Exhibit A pages 116 were admitted as evidence.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) monthly allotment?

### **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 a FAP benefit recipient.
2. On [REDACTED], 2019, Petitioner applied for FAP benefits, with updated household members.
3. On July 12, 2019, a verification checklist was sent with verifications due July 22, 2019.

4. On July 19, 2019, the worker processed the case and determined that Petitioner should receive \$116.00 in FAP benefits for July 11-July 31, 2019; and receive \$172.00 in FAP benefits for August 1, 2019-June 30, 2020.
5. The case action caused a reduction in Petitioner's FAP benefits.
6. The caseworker determined that some of Petitioner's household members were not citizens.
7. From June to October 2019, Petitioner was to receive \$172.00 in FAP per month.
8. On August 1, 2019, the Department determined that Petitioner's household members were refugees and provided Petitioner with a FAP supplement in the amount of \$462.00.
9. On September 27, 2019, the Department sent Petitioner a DHS 1605 Notice of Case Action
10. On October 22, 2019, Petitioner filed a Request for Hearing to contest the determination for the months of June 2019, forward.
11. On November 7, 2019, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents. (Respondent's Exhibit A pages 1-16)

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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, the Department's Authorized Hearings Representative who appeared to testify was not the Department caseworker who worked on the case. The Department Representative could not testify from personal knowledge as to what occurred on the case.

The Department Representative conceded on the record that the Department initially improperly determined that several members of Petitioner's household should not have been included in the FAP group because they were refugees, and that Petitioner was paid supplemental FAP benefits. However, there were no budgets attached to the Hearing Summary packet to show how the Department assessed Petitioner's FAP eligibility amounts. There was no evidence provided which would show how the determination was made and if the supplemental benefit was appropriate. There was insufficient income evidence supplied to this Administrative Law Judge and testimony was very confusing. Thus, this Administrative Law Judge was unable to make a determination of whether or not the Department correctly determined the proper amount of FAP to which Petitioner was entitled.

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 has not established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined the amount of Petitioner's monthly FAP benefit allotment.

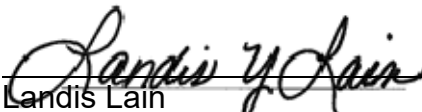
### **DECISION AND ORDER**

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. Redetermine eligibility for FAP benefits for the months of July 2019 forward; and
2. Provide Petitioner with Notice of FAP entitlement amounts for each month; and,
3. If Petitioner is otherwise eligible, pay to Petitioner any FAP benefits to which Petitioner is entitled from July 11, 2019 forward.

LL/nr



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Landis Lain

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**

Tara Roland 82-17  
8655 Greenfield  
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Wayne 17 County DHHS- via electronic  
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

