



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: December 13, 2019  
MOAHR Docket No.: 19-011939  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 December 12, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

### **ISSUE**

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

### **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 FAP recipient.
2. Petitioner's household consisted solely of herself.
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance in the gross amount of \$1,200 per month.
4. On October 24, 2019, the Department sent Petitioner a Notice of Case Action informing her that she was eligible for \$16 per month effective December 1, 2019, ongoing (Exhibit A, pp. 8-12).

5. On [REDACTED] 2019, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 was an ongoing FAP recipient. On October 24, 2019, the Department sent Petitioner notice that she was eligible for \$16 in monthly FAP benefits. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 14-16).

The Department included \$1,200 in unearned income in Petitioner's FAP budget. 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. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (October 2019), p. 28. The Department testified that Petitioner's gross monthly RSDI benefit amount was \$1,200. Therefore, the Department properly calculated Petitioner's household income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.

BEM 554; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$161. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-

of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. The Department will allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department will allow only the non-reimbursable portion of a medical expense. BEM 554, p. 11.

The Department testified that Petitioner does not have any ongoing medical expenses. The Department testified that it did not include a medical expense deduction for any one-time medical expenses because Petitioner had not submitted verification of any out-of-pocket medical expenses. The Department stated that Petitioner submits monthly medical expenses in a spenddown report for her Medical Assistance (MA) benefit case. The Department provided an example of one of the reports submitted by Petitioner (Exhibit A, p. 13). The Department contended that the document does not show what expenses Petitioner pays out-of-pocket. The Department testified that it contacted Hegira Health, Petitioner's medical provider, and was notified that 80% of the expenses listed on the report are covered by Medicare and the other 20% are covered by "Detroit-Wayne." The Department was unsure as to the nature of the Detroit-Wayne coverage.

Petitioner testified that she is not responsible for paying for the majority of her medical expenses. Petitioner stated she did not provide proof of her out-of-pocket medical expenses, as she was not aware that she was required to submit such verification.

As stated above, only the portion of a medical expense that is not covered by insurance can be included in a FAP budget. The spenddown reports provided by Petitioner do not include the portion of the medical expenses that are attributable to Petitioner. Therefore, the Department acted in accordance with policy when it did not include any medical expenses in Petitioner's FAP budget.

In calculating the excess shelter deduction of \$287, the Department stated that it considered Petitioner's verified housing expense of \$288 and that she was responsible for a monthly cooling expense, entitling her to the heat/utility standard of \$518. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$287 per month.

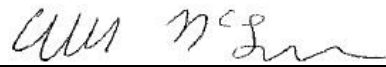
The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$1,039. Petitioner's adjusted gross income subtracted by the \$287 excess shelter deduction results in a net income of \$752. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size.

Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$█. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

**DECISION AND ORDER**

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

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**Ellen McLemore**

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

**Via Email:**

MDHHS-Wayne-19-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED] | [REDACTED]  
[REDACTED]