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

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Date Mailed: December 13, 2019
MOAHR Docket No.: 19-012073
Agency No.: ███████
Petitioner: ███████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 11, 2019, from Lansing, Michigan. Petitioner, ███████, appeared with her daughter, ███████. Respondent, Department of Health and Human Services (Department), had Assistance Payments Worker, Gewana Harris, and Supervisor, Ruby Anderson, appear as its representatives.

One exhibit was admitted into evidence during the hearing. A 22-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of August 2019, Petitioner was receiving a FAP benefit of $468.00 per month based on a household size of three.

2. In September 2019, Petitioner's FAP case closed.

3. On October 18, 2019, Petitioner reapplied for FAP benefits.

4. As of the date of application, Petitioner's household consisted of Petitioner and Petitioner's children, ███████, ███████, and ██. ███████ had her own FAP case as of the date of application. ███████ was an adult residing at home, attending

college full-time, and not working. ▇ was an adult attending college full-time and residing on campus.

5. Petitioner was employed by ▇▇▇▇. Petitioner was working an average of 67 hours every two weeks and received $12.00 per hour.

6. The Department reviewed Petitioner's application, determined that Petitioner was eligible for FAP, and issued a verification checklist to obtain additional information.

7. The Department then determined that Petitioner was eligible for a FAP benefit of $16.00 per month effective November 1, 2019. The Department determined that Petitioner's group size was one because her children had to be excluded. The Department determined that ▇▇▇▇ had to be excluded because she had her own FAP case, ▇▇▇▇ had to be excluded because he was enrolled full-time in college, and ▇ had to be excluded because he was enrolled full-time in college.

8. On November 4, 2019, Petitioner requested hearing to dispute her FAP benefit amount.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (July 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (July 1, 2019), RFT 255 (October 1, 2018), and RFT 260 (October 1, 2018). In this case, Petitioner did not dispute the income or expenses used by the Department. Petitioner's issue was that the Department determined her FAP benefit based on a group size of one.

Petitioner did not present sufficient evidence to establish that the Department improperly determined her group size was one. Although Petitioner's household included Petitioner's children, the Department had to exclude them from Petitioner's group size. Fatima had her own FAP case, so she was subject to exclusion from

Petitioner's group. 7 CFR 273.1. ████████ and █ were enrolled at least half-time in college, so they were subject to exclusion from Petitioner's group, too. 7 CFR 273.5. Petitioner did not present any evidence to establish that any of her children were exempt from exclusion or that any of the exclusions were improper.

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 there is insufficient evidence to establish that the Department's decision should be reversed.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml

Jeffrey Kemm
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

Sharnita Grant
25637 Ecorse Rd.
Taylor, MI 48180

Wayne 18 County DHHS – Via Electronic
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BSC4 – Via Electronic Mail

M. Holden – Via Electronic Mail

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Petitioner