



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], MI [REDACTED]

Date Mailed: January 13, 2020  
MOAHR Docket No.: 19-012925  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 January 9, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services, had Brenda Kann, Family Independence Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 31-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Food Assistance Program (FAP) benefits based on his household income?

### **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 applied for FAP benefits from the Department.
2. Petitioner is a disabled veteran, Petitioner has a household size of six, Petitioner has monthly housing expenses of \$800.00 per month, Petitioner pays for heating/cooling utilities in addition to his housing expenses, and Petitioner has monthly household income of [REDACTED].

3. The Department reviewed Petitioner's application for FAP benefits and determined that his net income exceeded the applicable limit.
4. On November 19, 2019, the Department mailed a notice of case action to Petitioner to notify him that his request for FAP benefits was denied because his household income exceeded the applicable limit.
5. On December 2, 2019, Petitioner requested a hearing.

### **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.

All non-categorically eligible individuals are subject to income limits. BEM 550 (January 1, 2017), p. 1. All individuals are non-categorically eligible unless their entire group is composed of individuals who are receiving one or more of the following: Domestic Violence Prevention Services (DVPS), Family Independence Program (FIP) assistance, State Disability Assistance (SDA), or Supplemental Security Income (SSI). BEM 213 (January 1, 2019), p. 1.

A non-categorically eligible senior/disabled/veteran individual must have household income that is below the net income limit. BEM 550 at 1. All other non-categorically eligible individuals must have household income that is both below the net income limit and below the gross income limit. *Id.* Thus, non-categorically eligible senior/disabled/veteran individuals are subject to only one income limit while all others are subject to two separate income limits.

In this case, Petitioner is a non-categorically eligible senior/disabled/veteran individual with a group size of six, so he is subject to the net income limit for a group size of six. The net income limit for a group size of six is \$2,883.00. RFT 250 (October 1, 2019). Petitioner's gross income was [REDACTED], Petitioner was eligible for a standard deduction of \$234.00, and Petitioner was eligible for a \$0.00 excess shelter deduction. Thus, Petitioner's net income was [REDACTED]. Since Petitioner's net income exceeds the net income limit for a group size of six, Petitioner is ineligible for FAP benefits. Thus, the Department properly found Petitioner ineligible.

Petitioner asserted that he felt that he was being treated unfairly because he was a veteran. Specifically, Petitioner felt that he was being treated unfairly because non-

veteran individuals are subject to the gross income test, but veterans are not. Petitioner did not receive less favorable treatment as a veteran. If Petitioner's application would have been processed as a non-veteran, Petitioner would have been subject to both the gross income and net income limits. Thus, Petitioner would have still been ineligible because he would have still been subject to the net income limit.

**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 did act in accordance with its policies and the applicable law when it determined that Petitioner was ineligible for FAP benefits.

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

JK/ml



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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**

Brenda Kann  
230 Huron St.  
Grayling, MI 49738

Crawford County DHHS – Via Electronic  
Mail

BSC1 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED]  
[REDACTED] MI [REDACTED]