



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: January 29, 2020  
MOAHR Docket No.: 19-013220  
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 January 21, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Manar Marji, Eligibility Specialist, and Gloria Thompson, Family Independence Manager. During the hearing, a 46-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-46.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective December 1, 2019, ongoing?

### **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 recipient of FAP benefits with a household size of four.
2. In August 2019, Petitioner went back to work with [REDACTED] ([REDACTED]). She received her first paycheck on August 20, 2019. Every week from that date through at least November 5, 2019, Petitioner received a weekly paycheck. Exhibit A, pp. 21-22.

3. Petitioner never reported that income change to the Department despite knowing that the Department was determining her FAP benefits without taking into consideration her income from her employment with Forge.
4. On October 13, 2019, Petitioner submitted to the Department a Semi-Annual Contact Report. In the report, Petitioner indicated that her income and employment was unchanged. Exhibit A, pp. 16-17.
5. On October 25, 2019, Petitioner received her first paycheck from her employment with [REDACTED]. Petitioner thereafter received paychecks from Operations Group on November 15, 2019 and November 25, 2019. Exhibit A, pp. 19-20.
6. On November 22, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her monthly FAP benefits were being reduced to \$510, effective December 1, 2019, ongoing. Exhibit A, pp. 8-10.
7. On December 9, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of her FAP eligibility.

### **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 objects to the Department's determination of her monthly FAP benefits, effective December 1, 2019. In August 2019, Petitioner began working regularly for Forge Industrial Staffing but never reported her income to the Department. Petitioner submitted to the Department an October 13, 2019 Semi-Annual Contact Report. On that report, Petitioner fraudulently misrepresented her earnings by claiming to not have a job. Upon receiving the dishonest submission, the Department ran a search to determine whether Petitioner had any unreported income. The search disclosed that Petitioner had the income with Forge Industrial Staffing and Operations Group. The Department used that income and recalculated Petitioner's FAP benefits.

In determining Petitioner's monthly FAP amount, the Department took into consideration Petitioner's expenses and income. The Department budgeted \$1,204 in earned

income. The Department also applied the heat and utility (h/u) standard of \$518 and the standard deduction of \$172. Petitioner's position was focused entirely on Petitioner's assertion that the Department overestimated her earnings at \$1,024 per month.

Petitioner objected to the Department's determination that she had monthly earned income of \$1,024. To determine monthly earned income when an individual is paid more often than on a monthly basis, the Department is required to determine a weekly amount then multiply that amount by 4.3 to get the monthly total. BEM 505 (October 2017), p. 7. In the four weeks prior to the issuance of the November 21, 2019 Notice of Case Action, Petitioner received two checks from [REDACTED] for a total of \$315 and three checks from [REDACTED] for a total of \$1,240. Combining those two sources of income shows that over the previous month, Petitioner had earned \$1,555. That number must be divided by four to get a weekly earnings figure of \$388. Multiplying that figure by 4.3 results in a monthly income of \$1,671. The Department budgeted only \$1,024 per month as Petitioner's earned income, which based on the evidence presented, was a gross underestimation of income.<sup>1</sup>

Petitioner's \$1,671 in earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1; BEM 556 (April 2018), p. 3. Subtracting the 20% earned income deduction from Petitioner's earned income results in a post-deduction total of \$1,336. That figure is further reduced by taking out the standard deduction applicable to Petitioner's group size, which is \$172, resulting in an adjusted gross income of \$1,164. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

Petitioner should not have been eligible for the excess shelter deduction. Petitioner had no housing costs. Petitioner, however, did qualify for the heat and utility standard of \$518. The excess shelter deduction is calculated by subtracting from the total housing expense figure (\$518) one half of the adjusted gross income, which is \$582. The remaining amount, if greater than zero, is the excess shelter deduction. As the remaining amount is less than zero, Petitioner was not eligible for the excess shelter deduction. Thus, Petitioner's net income is the same as the gross income of \$1,164

The Food Assistance Issuance Table shows \$296 in monthly FAP benefits for a household of four with a net income of \$1,164. RFT 260 (October 2019), p. 17. The Department determined the Petitioner was eligible for \$510 per month in FAP benefits. Any error that was made was made in Petitioner's favor and will be left undisturbed.

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<sup>1</sup> Petitioner asserts that she did not hold those jobs into December 2019 and that it was improper to continue budgeting that income. However, Petitioner at no time reported to the Department either the gaining of the jobs or the loss of the jobs. Instead, she simply lied about their very existence. Petitioner's fraudulent concealment of her income and subsequent dishonesty caused the Department to issue Petitioner substantially more benefits than she was entitled to for a period of at least three months. Even when the Department finally began budgeting the undisclosed income, it did so in a manner that resulted in Petitioner getting more than what she 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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits, effective December 1, 2019.

**DECISION AND ORDER**

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

JM/tm



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**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**

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**Petitioner**

[REDACTED]  
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cc: FAP: M. Holden; D. Sweeney  
AP Specialist-Wayne County