



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: February 13, 2020  
MOAHR Docket No.: 19-013733  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

**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 February 5, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Jennifer Unger, FIS. Tom Ayers, FIM, also appeared and testified. Department Exhibit 1, pp. 1-47.

**ISSUE**

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

**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 a recipient of FAP benefits.
2. On November 18, 2019, Petitioner submitted an online change report.
3. On November 18, 2019, a Verification Checklist was sent to Petitioner verification of "wages, salaries, tips and commissions" for the last 30 days with a December 2, 2019 due date.
4. On November 25, 2019, a change report was submitted by Petitioner asserting that her only income was child support.

5. On December 2, 2019, Petitioner contacted her caseworker and informed her that she did not have any pay stubs for the previous 30 days.
6. On December 6, 2019, Petitioner was sent a Notice of Case Action informing her that FAP benefits would close effective December 31, 2019, for failing to verify loss of employment.
7. On December 14, 2019, Petitioner's FAP case was reinstated after the Department received pay stubs.
8. On December 23, 2019, a verification checklist was sent to Petitioner requesting additional information about her income from Hartford Life.
9. On December 27, 2019, Petitioner requested hearing disputing the closure of FAP benefits.
10. On December 31, 2019, Petitioner's FAP case closed.
11. Petitioner reapplied for FAP benefits on January 6, 2020, and she was approved for \$16 per month.

### **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.

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130

In this case, Petitioner disputed the closure of FAP benefits due to failing to verify loss of employment. Petitioner also questioned why she was only receiving \$16 per month in FAP benefits and asked for a review of her budgeting.

With regard to the closure for failing to provide verifications, Petitioner made reasonable attempts to provide the requested verifications. Petitioner provided pay stubs for her

previous employer prior to her case closing and her case was reinstated. Petitioner provided a pay stub from her short-term disability payment from Hartford. The December 6, 2019, Notice of Case Action was negated when Petitioner's case was reinstated after she provided verifications from her former employer. If the Department was attempting to close her case based on her failure to verify her income from the Hartford, then a new Notice of Case Action needed to be sent to Petitioner and it was not. Therefore, the closure for failing to return verifications from Hartford was improper and incorrect. BAM 130

With regard to the Petitioner's allotment of FAP benefits, the Petitioner did not dispute the amounts the Department used for unearned income and shelter expense. The Department presented sufficient evidence to establish that Petitioner receives \$[REDACTED] in unearned income in the form of child support and unemployment benefits. After deducting the \$161 standard deduction, Petitioner has \$[REDACTED] in net income. A household of 2 that has \$[REDACTED] in net income is entitled to \$16 in monthly FAP benefit. This is the amount determined by the Department and it is proper and correct. RFT 260, BEM 556, 7 CFR § 273.9

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 not act in accordance with Department policy when it closed Petitioner's FAP case for failing to return verification. The Department acted in accordance with Department policy when they budgeted Petitioner's FAP benefits.


### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED IN PART** with respect to closure of FAP benefits and **AFFIRMED IN PART** with respect to FAP budgeting.

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. Reinstate Petitioner's FAP benefits going back to January 1, 2020.
2. Issue a supplement for any missed benefits.

AM/nr

  
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Aaron McClintic  
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**

Cindy Tomczak  
401 Eighth Street  
PO Box 1407  
Benton Harbor, MI 49023

Berrien County DHHS- via electronic mail

Cass County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**DHHS**

Jennifer Dunfee  
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**Petitioner**

██████████ - via first class mail  
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██████████, MI ██████████