



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: February 6, 2020  
MOAHR Docket No.: 20-000140  
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 February 5, 2020 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Deanda Holt, Assistance Payments Worker, and Ternisha Spears, Assistance Payments Worker. During the hearing, a 21-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-21.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective January 1, 2020?

### **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 from the Department. Petitioner's FAP group size was one.
2. Petitioner receives monthly unearned income of \$797. Exhibit A, pp. 6; 17-20.
3. On December 13, 2019, Petitioner reported to the Department that he started paying \$300 per month in housing costs. Petitioner provided to the Department a check as verification of the new expense. Exhibit A, p. 14.

4. On December 19, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his monthly FAP benefits were being increased to \$█, effective January 1, 2020. Exhibit A, pp. 5-7.
5. On █, 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

### **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 objected to the Department's determination that Petitioner was eligible for \$40 per month in FAP benefits, effective January 1, 2020. In determining Petitioner's FAP benefits, the Department factored into the equation Petitioner's unearned income of \$797, a standard deduction of \$161, child support payments of \$75, housing costs of \$300, and the telephone standard of \$30.

Petitioner acknowledged the unearned income amount. The standard deduction of \$161 was then taken out, resulting in figure of \$636. RFT 255 (October 2019), p. 1. Petitioner did not report any child care, medical, or child support expenses. However, the Department did budget a \$75 child support deduction, resulting in an adjusted gross income of \$█.<sup>1</sup>

Petitioner was eligible for the excess shelter deduction, which works to further reduce Petitioner's income. Petitioner had verified housing costs of \$300. Petitioner also qualified for the telephone standard of \$30. BEM 554 (January 2020), pp. 22-23 Adding Petitioner's housing expenses together results in total shelter expenses of \$330. The excess shelter deduction is calculated by subtracting from the total shelter expense figure (\$330) one half of the adjusted gross income, which is \$█. The remaining amount, if greater than zero, is the excess shelter deduction. The remaining amount is \$█.

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<sup>1</sup> Removing the \$75 child support deduction from the budget in this case would result in a retroactive reduction of Petitioner's FAP allotment without notice. If the Department would like to remove the deduction from the budget, it must give Petitioner timely notice of any consequent negative action.

Petitioner's net income is then calculated by subtracting the excess shelter deduction of \$50 from the adjusted gross income of \$■■■■, which equals \$■■■■. The Food Assistance Issuance Table shows \$■■ in monthly FAP benefits for a household of one with a net income of \$■■■■. RFT 260 (October 2019), p. 8. That is what the Department determined and is correct. Thus, the Department is affirmed.

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 January 1, 2020.

### **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**

Denise McCogle  
27260 Plymouth Rd  
Redford, MI  
48239

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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