



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: June 8, 2020  
MOAHR Docket No.: 20-002563  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 June 4, 2020.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Robert Bush, APS.

### **ISSUE**

Did the Department properly calculated Petitioner's FAP allotment?

### **FINDINGS OF FACT**

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

1. At all relevant times, Petitioner has been a beneficiary of the FAP program.
2. In March 2020, the Department conducted a mid-certification review and discovered that Petitioner's RSDI income had not been updated for 2020 from [REDACTED] month to [REDACTED].
3. On March 5, 2020, the Department issued a Notice of Case Action informing Petitioner that effective April 1, 2020, Petitioner's FAP allotment will be \$73.00 per month.

4. On March 11, 2020, Petitioner filed a hearing request. The Department conducted a review of the hearing request and discovered that Petitioner's newly reduced mortgage expense included taxes and insurance. The Department discovered that it had separately budgeted the taxes and insurance, giving Petitioner these expenses twice. The Department made the correction which resulted in Petitioner's FAP benefits being reduced to \$56.00 per month.
5. On March 11, 2020, the Department issued notice to Petitioner that his FAP benefits will be reduced to \$56.00 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.

First, it is noted that Petitioner claimed that he did not receive a copy of the evidentiary packet herein; Petitioner was given the option for an adjournment, which Petitioner did not request. In addition, Petitioner requested an opportunity to argue benefit copays regarding his Medicaid and Medicare programs. Petitioner was informed that if he disputes any actions taken by a federal agency, he must request a hearing with that agency. Petitioner also understands that if he disputes an action taken by the Department of Community Health, or DCH, he must request a hearing with that Department.

As to the issues herein with the DHHS, on March 11, 2020, Petitioner made a verbal request for an administrative hearing for his FAP benefits. Thus, there is no written request for an administrative hearing. However, at the administrative hearing, Petitioner made a number of arguments, none of which addressed the policy and factual basis of the Departments budgeting of Petitioner's FAP benefits.

Here, the Department went forward with presenting evidence used in calculating Petitioner's FAP benefits. The Department presented evidence of Petitioner's RSDI income, and FAP budget, budgeting the new RSDI allotment, along with the changes in Petitioner's mortgage payment, with regard to the reduction, and taxes, and insurance. In fact, Petitioner does not dispute these facts here.

Rather, here, Petitioner indicated that his FAP benefits were reduced when he made a comment about aliens to his worker who then, Petitioner claims, retaliated by reducing his FAP allotment. Administrative Law Judges have no jurisdiction over the conduct of a state employee; Petitioner was informed where he could file such complaints. Petitioner's FAP reduction is supported by the factual expenses of record.

Petitioner also argued that his FAP benefits are not sufficient at \$14.00 per week for a diabetic. Petitioner is correct. However, there is no law or policy which Petitioner cited which allows for different allotments based on medical conditions.

Petitioner also argued that the price of meat per pound is too high, as well as the price of other grocery items. The undersigned does not disagree. However, the price of groceries is not a basis upon which a food stamp beneficiary can be granted a larger FAP allotment.

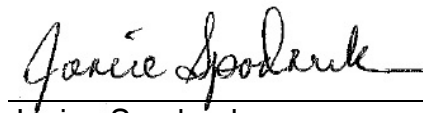
The Department relied on the budgeting policy for the FAP program found at BEM 500-505, 554, 556. Corresponding federal regulations are found at 7 CFR 273.10, 273.2 and 273.10-11. Petitioner's arguments do not assert a basis upon which the undersigned can change his FAP allotment.

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 under the facts of record.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

JS/ml



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Janice Spodarek  
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**

Antrim County DHHS – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

**Petitioner**

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