



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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██████████, MI ██████████

Date Mailed: June 16, 2020  
MOAHR Docket No.: 20-002592  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on June 9, 2020, from Lansing, Michigan. Petitioner was represented by ██████ ██████ Sonya Reynolds represented the Department.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for 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 an ongoing Food Assistance Program (FAP) recipient as a group of one.
2. Petitioner is a college student and his spouse are disqualified from receiving Food Assistance Program (FAP) benefits due to her immigration status.
3. Petitioner provided the Department with verification that her spouse was employed for 13 hours in January of 2020. Exhibit A, pp 8-9.
4. Petitioner provided the Department with verification that her spouse was self-employed and earned gross self-employment income of \$█████ in January of 2020, and \$█████ in February of 2020. Exhibit A, pp 12-18.
5. On March 9, 2020, the Department notified Petitioner that the household was not eligible for Food Assistance Program (FAP) benefits. Exhibit A, p 10.

6. On March 16, 2020, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-4.

### **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.

A college student must be in "student status" in order to remain eligible for FAP benefits and may do so through employment for at least an average of 20 hours per week, or self-employment for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20 hours. Department of Health and Human Services Bridges Eligibility Manual (BEM) 245 (June 1, 2020), pp 3-4.

Petitioner provided verification showing gross self-employment income of \$█ in February of 2020. The federal minimum is \$7.25 in 2020. Dividing \$810 of self-employment income by \$7.25 is the equivalent of 111 hours of employment, which is more than 20 hours per week.

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 Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is REVERSED.


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:

Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) effective February 1, 2020.

Provide the Petitioner with written notice describing the Department's revised eligibility determination.

Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr

  
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Kevin Scully  
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**

Tara Roland 82-17  
8655 Greenfield  
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48228

Wayne 17 County DHHS- via electronic  
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**Petitioner**

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