



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: August 5, 2020  
MOAHR Docket No.: 20-004511  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 5, 2020. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Maia Elvine-Fair, Assistance Payments Supervisor, and Tiffany Gore, Eligibility Specialist, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 17-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective July 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 has a household size of five, including two college students.
2. In May 2020, Petitioner's rent was \$1,100, and Petitioner was responsible for paying heating and cooling in addition to her rent.
3. In May 2020, Petitioner's household income was [REDACTED] which was composed of [REDACTED] social security of \$ [REDACTED] [REDACTED] social security of \$ [REDACTED] and [REDACTED] unemployment of \$3,203.00.

4. The Department reviewed Petitioner's case and determined that Petitioner was ineligible for FAP benefits because her household income exceeded the Department's limit.
5. On May 30, 2020, the Department mailed a notice of case action to Petitioner to notify her that she was ineligible for FAP benefits beginning July 1, 2020.
6. On June 5, 2020, Petitioner requested a hearing to dispute the Department's decision.

### **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) 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 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, the Department determined that Petitioner's household income exceeded the Department's limit to receive FAP, and the Department closed Petitioner's FAP benefits effective July 1, 2020. Petitioner is disputing the FAP closure.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (July 1, 2019), BEM 213 (January 1, 2020), BEM 550 (January 1, 2017), BEM 554 (January 1, 2020), BEM 556 (July 1, 2020), RFT 255 (January 1, 2020), and RFT 260 (October 1, 2019).

Petitioner's group size was limited to three because two of Petitioner's household members were college students. BEM 245 (January 1, 2020), p. 3-4. Based on Petitioner's group size of three, the net income limit to receive FAP benefits was \$1,778.00 per month. RFT 250 (October 1, 2019). Petitioner's net household income exceeded the limit, so the Department properly determined that Petitioner was ineligible for FAP benefits.

Petitioner argued that [REDACTED] income was overstated because she only receives \$ [REDACTED] per month from social security. However, Petitioner acknowledged that [REDACTED] social security is reduced due to an offset from social security for a debt owed to social security. The gross amount of her social security income is the amount that is countable, so the Department properly budgeted [REDACTED] social security at \$ [REDACTED] per month.

Petitioner also argued that her household has less income now due to a decrease in unemployment. Petitioner's current household income is not the relevant issue here; the issue is whether the Department properly determined Petitioner's household income at the time that it made its determination. Since the Department made its determination in May 2020, the Department properly used Petitioner's household income from May 2020.

**DECISION AND ORDER**

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 act in accordance with its policies and the applicable law when it closed Petitioner's FAP benefits effective July 1, 2020.

IT IS ORDERED that the Department's decision is AFFIRMED.

JK/ml



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Jeffrey Kemm  
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

**Petitioner**

██████████ – Via First Class Mail  
██████████  
██████████, MI ██████████

**DHHS**

Courtney Jenkins  
  
Washtenaw (District 20) County DHHS –  
Via Electronic Mail  
  
M. Holden – Via Electronic Mail  
  
D. Sweeney – Via Electronic Mail