



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI  
[REDACTED]

Date Mailed: September 1, 2020  
MOAHR Docket No.: 20-004581  
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 August 12, 2020.

Petitioner appeared unrepresented.

The Michigan Department of Health and Human Services (Department) was represented by Susan foreman, FIP and Melissa Steward, APW.

Department Exhibit A.46 was offered and admitted into evidence.

### **ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

### **FINDINGS OF FACT**

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

1. On [REDACTED], 2020, Petitioner applied for FAP benefits.
2. On June 24, 2020, the Department denied due to excess income.
3. On July 1, 2020 Petitioner appealed the denial.

## 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.

Applicable policy is found at BAM 115; BEM 550, 554, and 556. Corresponding federal regulations are found at 7 CFR 273.10; 273.2; and 273.9.

Individuals asserting eligibility for welfare programs have the burden of proof by a preponderance of evidence standard. However, the Department is first charged with the burden of going forward to establish what was done in the case.

In this case, Petitioner applied on [REDACTED] 2020, failing to disclose Petitioner's live in partner's (LTP) unemployment benefits. Due to a data exchange system alert, the Department discovered that Petitioner failed to disclose the LTP's income both at the application process and at the interview for the FAP program.

Budgeting all of the household's income, the FAP budget shows excess income for the FAP program. Exhibit A.41-43

At the administrative hearing, Petitioner did not dispute any of the income, deductions or expenses budgeted. Rather, Petitioner argued that her expenses are high and that others receive benefits who make more income than she does.

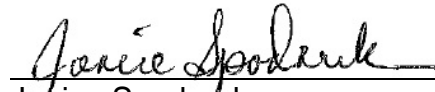
Petitioner's arguments failed to show that under established federal law and state policy that she was eligible for the FAP program. As such, Petitioner has not met her burden of proof and thus, the Department's denial must be upheld as the budget is consistent with law and policy.

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 denied Petitioner's FAP application due to excess income.

**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**

Alison Gordon  
Barry County DHHS – via electronic mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

**Petitioner**

 – via first class mail  
MI