



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: October 28, 2020  
MOAHR Docket No.: 20-005897  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 October 22, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Sausha Martin, Assistance Payments Worker.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

### **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 is an ongoing FAP recipient.
2. At some point on or before [REDACTED], 2020, the Department received verification of Petitioner's income with [REDACTED] via paychecks received on a bi-weekly basis.
3. On August 8, 2020, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit rate would be reducing to \$16.00 per month effective September 1, 2020 for a group size of two based upon \$ [REDACTED] in earned income, \$842.00 in unearned income, a \$161.00 standard deduction, no housing costs, and the heat and utility standard deduction (H/U).
4. On [REDACTED], 2020, the Department received verification of Petitioner's shelter expense in the amount of \$84.00 per month.

5. On September 11, 2020, the Department received Petitioner's Request for Hearing disputing the Department's calculation of her FAP benefit rate and attached an August 25, 2020 Pandemic Emergency Unemployment Compensation Monetary Determination.
6. On [REDACTED], 2020, the Department received verification that Petitioner's employment with [REDACTED] had ended on September 9, 2020 and that her last paycheck was issued on September 17, 2020.
7. On September 21, 2020, another Notice of Case Action was issued after Petitioner's Redetermination was processed.

### **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 disputes the Department's calculation of her FAP benefit rate. However, based upon the information presented in the hearing, it is impossible to determine how Petitioner's FAP benefit rate was calculated as of August 8, 2020 when the Notice of Case Action was issued. During the hearing, the Department presented numerous pieces of evidence and testimony regarding verifications received after the Notice of Case Action was issued on August 8, 2020 and before the September 21, 2020 Notice of Case Action. However, each of those pieces of evidence were unrelated to the Department's calculation of Petitioner's benefit rate as of August 8, 2020. Specifically, the Department presented evidence of

- Petitioner's wages from Employer 1 on August 10, 2020 and August 24, 2020, being 2 and 16 days after the Department's action and therefore, impossible to be considered with the August 8, 2020 action;
- Petitioner's shelter verification on [REDACTED], 2020;
- Verification of the end of Petitioner's employment with Employer 2; and,
- The Notice of Case Action dated September 21, 2020.

None of this evidence explains how the Department arrived at a \$16.00 benefit rate for a group size of two as identified in the Notice of Case Action on August 8, 2020. Furthermore, it does not explain the origin or calculation of the \$ [REDACTED] in earned income which was budgeted.

When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600 (January 2020), p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 10, 21- 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 9-10, 21. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 21. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

Other than the Notice of Case Action from August 8, 2020 and the Net Income budget, no other documents were presented to support its case that were relevant to the calculation of Petitioner's benefits as of August 8, 2020.

The Department bears the burden of showing that its challenged actions were taken in compliance with law and policy. To do so, the Department must at least explain why it took the action (why was Petitioner's earned income budgeted as \$ [REDACTED]) and provide documentary evidence of the action taken. The Department failed to do either. Thus, the Department failed to meet its burden of proof and must be reversed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

### **DECISION AND ORDER**

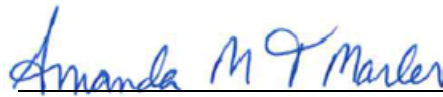
Accordingly, the Department's decision is **REVERSED**.

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:

1. Recalculate Petitioner's FAP benefit rate effective September 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner for FAP benefits not previously received; and,

3. Notify Petitioner in writing of its decision.

AMTM/cc



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**Amanda M. T. Marler**  
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

**Via Email:**

MDHHS-Wayne-57-Hearings  
BSC4-DecisionHearings  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner- Via USPS:**

