



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: November 19, 2020  
MOAHR Docket No.: 20-006436  
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, a telephone hearing was held on November 12, 2020. Petitioner represented herself. Petitioner agreed to proceed with the hearing without having a copy of the hearing exhibits. The Department was represented by Amber Gibson.

**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. On ██████████ 2020, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 4-9.
2. Petitioner receives monthly unemployment compensation benefits in the gross monthly amount of \$█████████ Exhibit A, p 13.
3. Petitioner reported monthly housing expenses of \$1,310. Exhibit A, p 8.
4. On September 9, 2020, the Department notified Petitioner that she was eligible for a \$16 monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, pp 17-21.
5. On October 1, 2020, the Department received Petitioner's request for a hearing protesting the size of her monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

## 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 funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2020).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Eligible FAP recipients will receive a prorated monthly allotment of FAP benefits as of the application date, but if the benefit amount is less than \$10, the FAP group will not receive an initial benefit. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (January 1, 2020), pp 6-7.

On [REDACTED] 2020, the Department received Petitioner's application for FAP benefits. In the 30 days leading up to filing her application, Petitioner's only source of income was two unemployment compensation benefits payments in the bi-weekly amounts of \$[REDACTED]. The Department determined that Petitioner's prospective gross monthly income of \$[REDACTED] by multiplying her average bi-weekly income by the 2.15 conversion factor as directed by BEM 505. Petitioner's adjusted gross income of \$[REDACTED] was determined by deducting the \$167 standard deduction from her total monthly income.

Petitioner is entitled to an excess shelter deduction determined by taking the total of her mortgage payment, her homeowner's insurance, her property taxes, and the standard heat and utility deduction, the subtracting 50% of her adjusted gross income. Since that amount exceeded the allowable deduction for a non-disabled person, Petitioner's shelter deduction was limited to the maximum shelter deduction of \$586. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2020), p 1. Department of Health and Human Services Reference Table Manual (RFT) 255 (October 1, 2020), p 1.

Petitioner's net monthly income, for the purposes of determining eligibility for FAP benefits, was determined by reducing her adjusted gross income by the maximum excess shelter deduction. A household of one with a net monthly income of \$[REDACTED] is entitled to a \$16 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 15.

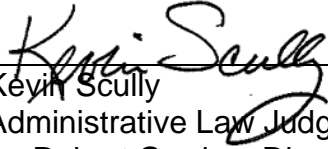
Petitioner received no FAP benefits in September because the prorated benefits based on her application date was less than \$10 and began receiving her monthly FAP allotment as of October 1, 2020, as directed by BEM 556.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

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**

Amber Gibson  
5303 South Cedar  
PO BOX 30088  
Lansing, MI  
48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

████████████████████ via first class mail  
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