



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: January 26, 2021  
MOAHR Docket No.: 20-007721  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 January 14, 2021. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Tamara Jackson, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-34.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

### **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 August 12, 2020, a Notice of Case Action was issued to Petitioner stating FAP was approved effective September 1, 2020, with a monthly allotment of \$ [REDACTED] for a household size of four. (Exhibit A, pp. 23-28)
2. On September 21, 2020, Petitioner submitted a change report regarding the change in her rent expense to \$790.00 effective September 14, 2020. (Exhibit A, p. 32)
3. A State Online Query (SOLQ) Report verified that a household member was receiving SSI benefits. (Exhibit A, pp. 18-20)

4. An unemployment compensation search verified that an unemployment compensation benefit (UCB) client in the household was receiving ongoing UCB. (Exhibit A, pp. 33-34)
5. On September 23, 2020, a Notice of Case Action was issued to Petitioner stating FAP increased to a monthly allotment of \$ [REDACTED] effective October 1, 2020. (Hearing Facilitator Testimony)
6. On November 24, 2020, Petitioner requested a hearing contesting the Department's FAP determinations from April 2020 through November 2020. (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.

On November 24, 2020, Petitioner requested a hearing contesting the Department's FAP determinations from April 2020 through November 2020. (Exhibit A, pp. 3-4) However, pursuant to BAM 600, a hearing request must be filed within 90 days of the written notice of case action. BAM 600, January 1, 2020, p. 6. Accordingly, there is no jurisdiction to address the Department's action from the August 12, 2020 Notice of Case Action, nor the Department's determinations all the way back to April 2020. Rather, there is only jurisdiction to address the determination from the September 23, 2020, Notice of Case Action.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits and unemployment benefits. BEM 503, September 1, 2020, pp. 29-31 and 35-38. The Department counts the gross benefit amount as unearned income. BEM 503, pp. 29, 35, and 38. The Department also counts the corresponding monthly amount of the quarterly State SSI payments as unearned income. BEM 503, p. 36.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (August 1, 2020), p. 13. A FAP group which has no heating/cooling expense but has a responsibility to pay for a traditional land-line service, cellular phone service including per-minute or per-call service and

voice over Internet protocol (VoIP) must use the telephone standard. The standard covers only the telephone expense. BEM 554, p. 22.

Income that is received more often than monthly is converted to a standard monthly amount. Income received weekly is multiplied by 4.3. Income received every two weeks is multiplied by 2.15. This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505, October 1, 2017, p. 9.

The FAP budget for October 2020 was reviewed with the parties. Petitioner questioned how the unearned income was budgeted. The Department included \$ [REDACTED] in unearned income (\$ [REDACTED] SSI, \$ [REDACTED] State Supplement to SSI, and \$ [REDACTED] UCB). The bi-weekly UCB was converted to a standard monthly amount (\$ [REDACTED] multiplied by 2.15). (Hearing Facilitator Testimony)

Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for FAP under the above cited BEM policies. The Department counted the gross amount of each unearned income type, SSI, State Supplement to SSI, and UCB. Further the Department properly converted the UCB benefit to a standard monthly amount.

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 FAP.

### **DECISION AND ORDER**

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

CL/ml



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Colleen Lack  
Administrative Law Judge  
for Elizabeth Hertel, 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**

Brenda Buhl  
Lapeer County DHHS – via electronic mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]