



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: February 1, 2021  
MOAHR Docket No.: 20-007957  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 January 27, 2021. Petitioner was represented by herself. The Department was represented by Tasha Merlington and Allison Weber.

### **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 [REDACTED], 2020, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, p 5-11.
2. Petitioner received unemployment compensation benefits in the gross bi-weekly amount of \$ [REDACTED] on November 14, 2020, and November 28, 2020. Exhibit A, p 20-21.
3. On December 7, 2020, the Department denied Petitioner's November 9, 2020, application.
4. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing. Exhibit A, p 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) 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).

On [REDACTED] 2020, Petitioner applied for FAP benefits. Petitioner received two unemployment compensation payments in November and received other unemployment payments in the 30 days before her application. The Department counted those unemployment benefit compensation benefits towards her eligibility for FAP benefits and determined that the household was ineligible for FAP benefits in November of 2020, based on their net monthly income. Petitioner's gross household income also exceeds the gross monthly limit, but as a household containing disabled individuals, this limit does not apply.

Petitioner argued that she reported to the Department that she would not apply for additional unemployment benefits and that this source of income was not likely to continue.


However, the Department properly determined that Petitioner was not eligible for FAP benefits in November based on her income during the previous 30 days and the income she actually received in November.

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 November 9, 2020, application for Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
\_\_\_\_\_  
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**

Kimberly Kornoelje  
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Grand Rapids, MI  
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

[REDACTED] - via first class mail  
[REDACTED], MI  
[REDACTED]