



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: February 1, 2021  
MOAHR Docket No.: 20-007959  
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 represented herself. The Department was represented by Rollin Carter.

### **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 October 18, 2020, the Department received Petitioner's Renew Benefits form.
2. Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of [REDACTED] and monthly State Supplemental Security Income (SSP) in the gross monthly amount of [REDACTED]. Petitioner receives a net monthly social security payment of \$ [REDACTED]
3. Petitioner's child receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and an advance payment of \$79.40.
4. The Department received verification that Petitioner is responsible for a \$860 monthly expense for rent.
5. The Department notified Petitioner that she was eligible for a \$219 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2022.

6. On December 11, 2020, the Department received Petitioner's request for a hearing protesting her eligibility for Food Assistance Program (FAP) benefits.

### **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).

The hearing record supports a finding that the Department is properly applying a \$860 expense for rent. It should be noted that the standard heat and utility deduction changed effective January 1, 2021, which affects Petitioner's eligibility for FAP benefits.

The Department properly determined that Petitioner receives countable income from SSI in the gross monthly amount of \$[REDACTED]. Gross monthly income is countable towards eligibility for FAP benefits as directed by BEM 500, which may be more than the client actually receives.

The Department conceded that the countable income received by Petitioner's child was not properly determined. The Department was correct when it determined that this error did not change the final amount of FAP benefits issued to Petitioner because she was eligible for the COVID-19 supplement raising her monthly allotment to the maximum allotment available to a household of two.

However, the COVID-19 supplemental payment is not an entitlement, and Petitioner is entitled to an accurate determination of her monthly allotment of FAP benefits even if she does not receive any additional FAP benefits as a result of the correction.

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 benefits as of December 1, 2020.

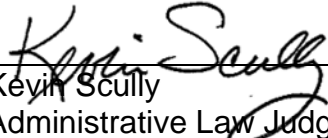
**DECISION AND ORDER**

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:

Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) effective December 1, 2020.

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**

Elisa Daly  
411 East Genesee  
PO Box 5070  
Saginaw, MI  
48607

Saginaw County DHHS- via electronic  
mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

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