



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: March 16, 2021
MOAHR Docket No.: 21-000347
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 March 10, 2021, from Lansing, Michigan. The Petitioner was represented by herself. ██████ ██████ from ██████ ██████ appeared and testified for the Petitioner. The Department of Health and Human Services (Department) failed to appear. Department Exhibit 1, pp. 1-48 was received and admitted without objection.

ISSUE

Did the Department properly determine Petitioner's 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. Petitioner was a recipient of FAP benefits.
2. On November 14, 2020, Notice of Case Action was sent to Petitioner informing her that her FAP benefits would be reduced to \$192 per month effective January 1, 2021.
3. On January 29, 2021, Petitioner requested hearing disputing the reduction of FAP benefits.
4. Petitioner testified that her son's employment income is \$█████ per month.

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.

DEPARTMENT POLICY

This item applies **only** to the Food Assistance Program (FAP).

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

Use **only** available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255.

Document income budgeting on either a manually calculated or an automated FAP worksheet. BEM 550 (October 2020)

In this case, Petitioner requested a hearing disputing the reduction of her FAP benefits. Petitioner testified that the amount budgeted for her son's employment income was incorrect. Petitioner credibly testified that her son's employment income was \$[REDACTED] per month. The Department failed to appear and failed to present any evidence to rebut Petitioner's testimony.

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 reduced Petitioner's FAP benefit. BEM 550, 7 CFR 273.9(a)(4)(b)

It was explained to Petitioner that due to the pandemic FAP supplement she appears to have been receiving the maximum benefit for her group size and she may not be entitled to any more benefit after the Department re-budgets her benefit.

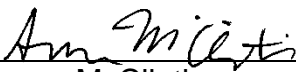
DECISION AND ORDER

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. Re-budget Petitioner's FAP benefit to reflect \$█ employment income for household member Patrick Doyle.
2. Issue a supplement if Petitioner is entitled to any additional FAP benefit.

AM/nr



Aaron McClintic
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

Courtney Jenkins
22 Center Street
Ypsilanti, MI
48198

Washtenaw County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Authorized Hearing Rep.

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

Petitioner

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