



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: March 19, 2021  
MOAHR Docket No.: 21-000351  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On January 25, 2021, Petitioner, [REDACTED], requested a hearing to dispute the Department's decision to terminate her Food Assistance Program (FAP) benefits, beginning February 1, 2021. As a result, a hearing was scheduled to be held on March 17, 2021, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department), had April Nemec, Hearing Facilitator, and Gary Shuk, Regulation Agent, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 78-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Whether the Department properly terminated Petitioner's FAP benefits, beginning February 1, 2021?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department received a complaint about Petitioner on its fraud hotline, and the complaint alleged that Petitioner was obtaining public assistance through fraud.
2. The Department's Office of Inspector General investigated the complaint and determined that Petitioner was receiving FAP benefits based on the incorrect household income.

3. Petitioner was receiving earned gross income of \$3,260.00 from employment, and the income was not budgeted when the Department approved Petitioner for FAP benefits.
4. Petitioner had a group size of four, Petitioner was paying rent of \$1,150.00, and Petitioner was responsible for paying for her own utilities (including heating and cooling).
5. The Department also determined that Petitioner was receiving child support of \$315.00 per month.
6. The Department redetermined Petitioner's eligibility for FAP benefits by budgeting her earned income, and the Department determined that Petitioner was ineligible for FAP benefits because her household income exceeded the program limit.
7. On January 15, 2021, the Department issued a notice of case action to notify Petitioner that her FAP benefits were going to be terminated, beginning February 1, 2021.
8. On January 25, 2021, Petitioner requested a hearing to dispute the termination of her 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 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner is disputing the Department's decision to terminate her FAP benefits. Petitioner asserted that the Department did not act properly because it budgeted income from child support of \$315.00 per month when Petitioner was not receiving any income from child support. Petitioner did not dispute the Department's budget other than the income from child support, and Petitioner's budgeted gross income without the income from child support was \$3,260.00 per month.

FAP benefits are income based. 7 CFR 273.9(a). Households which do not contain an elderly or disabled member must meet both the net income eligibility standards and the gross income eligibility standards to be eligible for FAP benefits. *Id.* Effective October 1, 2020, the gross income limit for a group size of four was \$2,839.00 per month. RFT


250 (October 1, 2020). Thus, even without budgeting any income from child support, Petitioner's gross income of \$3,260.00 per month exceeded the gross income limit of \$2,839.00, so Petitioner was not eligible for FAP benefits. Therefore, the Department properly terminated Petitioner's FAP benefits, beginning February 1, 2021.

**DECISION AND ORDER**

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 did act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits, beginning February 1, 2021.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/cc



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**Jeffrey Kemm**

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

**Via Email:**

MDHHS-Genesee-UnionSt-Hearings  
BSC2-HearingDecisions  
D. Sweeney  
M. Holden  
MOAHR

**Petitioner- Via USPS:**

