



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

████████████████████  
████████████████████  
████████████████████  
████████, MI ██████████

Date Mailed: October 21, 2021  
MOAHR Docket No.: 21-004064  
Agency No.: ██████████  
Petitioner: █████ █████ █████

**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 October 13, 2021. Petitioner was represented by her authorized representative ██████████ ██████████. The Department was represented by April Nemec.

**ISSUE**

Did the Department of Health and Human Services (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 ██████████ ██████████ ██████████ the Department received Petitioner’s application for Food Assistance Program (FAP) benefits. Exhibit A, pp 11-18.
2. Petitioner reported on her ██████████ ██████████ ██████████ application for assistance that she was responsible for medical expenses. Exhibit A, p 17.
3. Petitioner is disabled and she receives Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$██████████
4. On February 18, 2021, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits with a \$16 monthly allotment. Exhibit A, pp 22-24.
5. On May 20, 2021, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of her medical expenses. Exhibit A, pp 39-40.

6. Petitioner submitted a listing dated June 1, 2021, of medical expenses that she incurred. Exhibit A, pp 41-47.
7. On June 2, 2021, the Department notified Respondent that she was eligible for ongoing Food Assistance Program (FAP) benefits with a \$16 monthly allotment. Exhibit A, pp 48-50.
8. Petitioner submitted a listing dated June 30, 2021, of medical expenses that she incurred. Exhibit A, pp 54-59.
9. On July 19, 2021, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits with a \$57 monthly allotment. Exhibit A, pp 64-66.
10. On September 1, 2021, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits with a \$19 monthly allotment. Exhibit A, pp 71-73.
11. On June 9, 2021, the Department received Petitioner's request for a hearing protesting the size of her monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, pp 6-8.

### **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.

When determining countable expenses towards eligibility for FAP benefits, the Department will only consider the medical expenses of senior/disabled/veterans in the eligible household. Recipients of FAP benefits are not required to but may voluntarily report medical expenses during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (July 1, 2021), pp 8-9.

Petitioner's representative argued that Petitioner did not receive a Verification Checklist (DHS-3503) requesting verification of medical expenses.

The hearing record supports a finding that the Department mailed its request for Petitioner to provide verification of her medical expenses to her mailing address of

record. While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003). In this case, Petitioner failed to offer any evidence that would rebut the presumption that she received the Verification Checklist (DHS-3503) form. Further, it was not necessary for Petitioner to receive the verification checklist for her to submit verification of her medical expenses since she can submit verification of medical expenses at any time.

Petitioner's representative argued that the Department did not instruct Petitioner how to verify her medical expenses.

The hearing record supports a finding that the Department sent Petitioner a written request for verification of her medical expenses. This form that was mailed to Petitioner at her mailing address of record and it gives examples of the types of proofs that could be submitted. The form also instructs Petitioner to call her caseworker right away if she had questions or problems getting the proofs. This Administrative Law Judge finds that the Department gave Petitioner sufficient instructions to verify her reported medical expenses.

Petitioner's representative argued that the Department's proposed exhibits show the size of the allotment of FAP benefits for months that are not relevant to her hearing request.

The Department's listing of Petitioner's monthly allotment of FAP benefits covers monthly not relevant to her hearing request, and her hearing request would be considered untimely with respect to her eligibility for benefits in those months.

However, this Administrative Law Judge finds that the excess documentation submitted in the Department's proposed exhibits is not prejudicial to Petitioner and the inclusion of this nonrelevant information in this case is harmless error.

Respondent's representative argued that the medical expenses incurred by Petitioner are necessary based on her medical condition.

No evidence was presented on the record to establish a finding that the Department does not acknowledge that Petitioner is disabled, or that any of the medical expenses she incurred were not countable based on the medical necessity. Since Petitioner is disabled, any medical expenses that she incurs are deductible if they are listed in BEM 554 as allowable medical expenses. BEM 554, pp 10-12.

Petitioner's representative argued that the Department failed to allow medical expenses reported by Petitioner when determining her eligibility for FAP benefits.

Department policy requires that medical expenses be verified. Acceptable verification sources include, but are not limited to:

- Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare, or Medicaid.
- Insurance, Medicare, or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer.
- DHS-54A, Medical Needs, completed by a licensed health care professional.
- SOLQ for Medicare premiums.
- Written statements from licensed health care professionals.
- Collateral contact with the provider. (Most commonly used to determine cost of dog food, over-the-counter medication and health-related supplies, and ongoing medical transportation).

BEM 554, p 13.

On June 1, 2021, Petitioner's representative submitted a memorandum listing medical expenses Petitioner claims to have incurred, as well as invoices showing purchases and listing the medical condition they were intended to treat. No evidence was presented on the record that Respondent's authorized representative is also her medical service provider and the statement she provided is not acceptable verification. It was not disputed that the purchases listed in the documents submitted by Petitioner would be countable expenses if they included acceptable verification that Petitioner had actually incurred those expenses. The documents do not verify that Petitioner actually incurred those expenses because they do not include Petitioner's name.

On June 30, 2021, Petitioner's representative submitted additional documents listing medical expenses Petitioner claims to have incurred. The documents submitted on June 30, 2021, also do not verify that Petitioner actually incurred those expenses because they do not include Petitioner's name.

Petitioner's monthly adjusted gross income of \$█ was determined by reducing her total gross monthly income by the \$167 standard deduction. Petitioner was not granted a deduction for medical expenses because acceptable verification of her medical expenses was not received by the Department.

Petitioner is entitled to a \$124 deduction for shelter expenses, which was determined by reducing the total of her housing expenses and the standard heat and utility deduction by 50% of her adjusted gross income. Petitioner's shelter expenses were not disputed during the hearing.

Petitioner's net monthly income of \$█ was determined by reducing her adjusted gross income by the shelter deduction. A household of one person with a net monthly income of \$█ is entitled to a \$16 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2020), p 12.

The hearing record supports a finding that the Department credibly determined Petitioner's eligibility for FAP benefits, and it should be noted that since Petitioner's monthly allotment of benefits is less than the maximum benefit amount for her group size, she is entitled to supplemental benefits through the Consolidated Appropriations Act, 2021 (CAA). Economic Stability Administration (ESA) 20212-30.

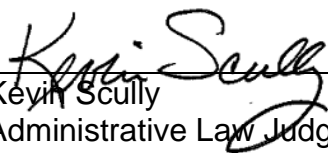
On July 19, 2021, the Department notified Petitioner that she was eligible for a \$57 monthly allotment of FAP benefits based on a deduction for medical expenses of \$165. This deduction is based on the standard \$200 medical expenses deduction, and not that \$200 of medical expenses were incurred. Further, the hearing record does not support a finding that Petitioner provided acceptable verification of medical expenses exceeding \$35, but Petitioner continues to receive supplemental FAP benefits raising her monthly benefit level to the maximum 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 Food Assistance Program (FAP) benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
\_\_\_\_\_  
Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings and  
Rules (MOAHR)

**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**

Tamara Morris  
125 E. Union St 7th Floor  
Flint, MI 48502

Genesee Union St. County DHHS- via  
electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Authorized Hearing Rep.**

██████████ - via first class mail  
██████████  
██████, MI ██████

**Petitioner**

██████████ - via first class mail  
██████████  
████████████████████  
██████, MI ██████