



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

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██████████, MI ██████████

Date Mailed: August 28, 2023  
MOAHR Docket No.: 23-004308  
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 August 23, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Alison Peck.

### **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. Petitioner is an ongoing Food Assistance Program (FAP) recipient, and the Department received her Renew Benefits form on February 23, 2023. Exhibit A, p 8.
2. Petitioner's IRS tax form Schedule C shows that she reported gross annual self-employment income of \$██████████ and a net annual profit of \$██████████ Exhibit A, p 20.
3. Petitioner's minor child receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$██████ and State Supplemental Security Income (SSP) in the gross monthly amount of \$██████ Exhibit A, p 38.
4. Petitioner is responsible for housing expenses in the monthly amount of \$1,300, and she is responsible for heat and utility expenses at her home.

5. On July 20, 2023, 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.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides child care in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (October 1, 2019), pp 1-3.

Petitioner is an ongoing recipient of FAP benefits as a household of three including herself and two children. One of Petitioner's children received SSI and SSP payments in the gross monthly amount of \$[REDACTED] which was not disputed during the hearing. Petitioner's income tax return shows that she reported annual gross self-employment income of \$[REDACTED]. An income tax return is the primary method of verifying self-employment income for the purposes of determining eligibility for FAP benefits. The Department determined that Petitioner's gross monthly self-employment income was \$[REDACTED] by dividing her annual self-employment income by 12 months and applying the flat 25% self-employment income deduction as directed by BEM 502. Petitioner had reported self-employment expenses to the IRS and net self-employment in the annual amount of \$[REDACTED] but BEM 502 requires that self-employment expenses be verified by receipts of the actual expenses otherwise the flat 25% expenses deduction applies.

Petitioner's adjusted gross income of \$[REDACTED] was determined by reducing her income by the 20% earned income deduction, and the \$193 standard deduction. This income

exceeds the gross income limit for a household of three to receive any FAP benefits, but because Petitioner's child is an SSI recipient, this limit does not apply.

Petitioner is entitled to a \$657 deduction for shelter expenses, which was determined by reducing the total of her monthly \$1,300 housing expenses and the \$624 standard heat and utility deduction by 50% of her adjusted gross income.

Petitioner's net monthly income of \$[REDACTED] was determined by reducing the adjusted gross income by the \$657 shelter deduction. A household of three with a net income of \$[REDACTED] is entitled to a \$176 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2022), p 26.

The Department did not send Petitioner written notice of her monthly allotment of FAP benefits and Petitioner disputes the Department's determination of her countable self-employment income. On August 2, 2023, Petitioner provided the Department with Self-employment Income and Expenses Statements showing income amounts for months more recent than her income tax return but no evidence that expenses receipts were turned in.

Based on the evidence and testimony available during the hearing, the Department was acting in accordance with BEM 502 when it determined the self-employment income countable towards Petitioner's eligibility for FAP benefits and determined that income using the most accurate information available at the time.

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 the Food Assistance Program (FAP).

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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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

**Via-Electronic Mail :**

**DHHS**  
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**Interested Parties**  
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**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
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