



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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

Date Mailed: March 4, 2019
MAHS Docket No.: 18-013931
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 27, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented herself. Dionere Craft, Hearing Facilitator, appeared and represented the Department. Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. An 11-page packet of documents provided by the Department on February 4, 2019, was admitted collectively as the Department's Exhibit A, and a 28-page packet of documents provided by the Department on January 4, 2019, was admitted collectively as the Department's Exhibit B.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 a FAP benefit recipient. Petitioner has a household size of two, Petitioner pays a rent expense of \$950.00 per month, and Petitioner does not have to pay for heat or utilities in addition to her rent expense.
2. In October, November, and December 2018, the Department initially issued Petitioner a FAP benefit of \$15.00 each month.

3. On December 27, 2018, Petitioner filed a hearing request to dispute her FAP benefit amounts for October, November, and December 2018.
4. Petitioner provided documentation of her income from October, November, and December 2018. The Department then re-budgeted her FAP benefit for each of the months.
5. For October 2018, Petitioner provided documentation of her income showing that she earned \$[REDACTED]. The Department recalculated Petitioner's FAP benefit and determined that she was eligible for a FAP benefit of \$207.00. The Department authorized a supplemental FAP benefit issuance of \$192.00 to correct her original issuance.
6. For November 2018, Petitioner provided documentation of her income showing that she earned \$[REDACTED]. The Department recalculated Petitioner's FAP benefit and determined that she was eligible for a FAP benefit of \$166.00. The Department authorized a supplemental FAP benefit issuance of \$151.00 to correct her original issuance.
7. For December 2018, Petitioner provided documentation of her income showing that she earned \$[REDACTED]. The Department projected Petitioner's income based on her reported income for her new job and came up with a monthly income of \$[REDACTED]. The Department recalculated Petitioner's FAP benefit and determined that she was eligible for a FAP benefit of \$136.00. The Department authorized a supplemental FAP benefit issuance of \$121.00 to correct her original issuance.
8. For each of the three aforementioned months, the Department granted Petitioner the full heat/utility standard when it budgeted her FAP benefits.
9. The Department issued a lump-sum FAP issuance to Petitioner to supplement her issuances for October, November, and December 2018. The Department did not issue a written notice to notify Petitioner that she was eligible for a greater FAP benefit amount. The Department did not provide any explanation to Petitioner to explain how it determined the FAP benefit amount she was eligible for.
10. On January 15, 2019, Petitioner filed another hearing request to dispute the Department's determination of her FAP benefit amount.

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.

The Department did not act in accordance with its policies and the applicable law because (a) it did not present sufficient evidence to establish that it correctly determined Petitioner's income when it budgeted her FAP benefits and (b) it did not present sufficient evidence to establish that it correctly granted Petitioner a heat/utility standard when it budgeted her FAP benefits.

The Department stated that it budgeted \$[REDACTED] for Petitioner's income for October, \$[REDACTED] for Petitioner's income for November, and \$[REDACTED] for Petitioner's income for December. However, when asked to breakdown each of those figures, the Department was unable to provide paychecks that totaled the numbers it said it used; the paychecks the Department provided did not equal the numbers that it stated it budgeted. Based on this discrepancy in the Department's evidence, I must find that the Department did not present sufficient evidence to establish that it correctly determined Petitioner's income when it determined her FAP benefits.

The Department stated that it granted Petitioner a heat/utility standard when it budgeted her FAP benefits for October, November, and December 2018. However, Petitioner testified that she does not pay for heating or cooling separate from her rent. The heat/utility standard is available to households who have a heating expense separate from their rent or mortgage. BEM 554 (August 1, 2017), p. 15-16. The heat/utility standard is also available to households who do not have a heating expense separate from their rent or mortgage but have received a Home Heating Credit (HHC) or a Low-Income Home Energy Assistance Payment (LIHEAP). Here, Petitioner did not have a heating expense separate from her rent, and neither the Department nor Petitioner provided any evidence that Petitioner was entitled to a heat/utility standard because she was a recipient of an HHC or LIHEAP. Thus, I must find that the Department did not present sufficient evidence to establish that it correctly granted Petitioner a heat/utility standard when it budgeted her FAP benefits.

Petitioner asserted at the hearing that the Department should have issued a written notice to her to notify her that she was eligible for an increase in FAP benefits and to explain why. The Department acted in accordance with its policies when it did not issue a written notice to Petitioner because the increase was a supplement for three months within the past 12 months prior to the date of Petitioner's initial hearing request. Pursuant to the Department's policy, notice is not issued for supplementation over multiple months to restore lost benefits. BAM 220 (January 1, 2019), p. 5 and BAM 406 (July 1, 2013), p. 3.

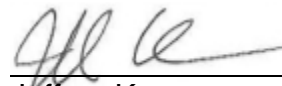
DECISION AND ORDER

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 not act in accordance with its policies and the applicable law when determined Petitioner's FAP benefit amount for October, November, and December 2018.

IT IS ORDERED the Department's decision is REVERSED.

IT IS FURTHER ORDERED that the Department shall re-budget Petitioner's FAP benefit amount for October, November, and December 2018.

JK/nr



Jeffrey Kemm
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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI
48212

Wayne 55 County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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