



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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

Date Mailed: May 6, 2019
MOAHR Docket No.: 19-001376
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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, an in-person hearing was held on April 25, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearings Facilitator and Darnell Perkins, Family Independence Specialist.

ISSUE

Did the Department properly follow the orders of Michigan Administrative Hearing System (MAHS) (now known as the Michigan Office of Administrative Hearings and Rules (MOAHR)) docket number 18-012493 with regard to the Family Independence Program (FIP) and 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. A hearing was held on January 10, 2019, in MAHS docket number 18-012493 before Administrative Law Judge Christian Gardocki (ALJ).
2. On January 11, 2019, ALJ issued a decision in docket number 18-012493 indicating that the Department had erred in removing Petitioner's grandchild from the FIP and FAP groups and ordered the Department to reprocess FIP eligibility from September 2018, ongoing, and FAP eligibility from October 2018, ongoing, then issue any applicable supplements to Petitioner.

3. The Department has issued both FIP and FAP supplements to Petitioner based upon ALJ's order
4. On February 1, 2019, the Department received Petitioner's request for hearing disputing the Department's implementation of ALJ's order for FIP and FAP, as well as a failure to process her request for SER 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).

State Emergency Relief (SER)

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

At the hearing, Petitioner testified that she no longer wanted to proceed with a hearing on the issue of SER as her concerns had been resolved. The Department had no objection to the withdrawal of the hearing request as it related to the SER program. Therefore, Petitioner's request for hearing as it relates to SER is DISMISSED.

Family Independence Program (FIP)

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Petitioner disputes the Department's implementation of the FIP and FAP order from ALJ in docket number 18-012493. Petitioner contends that the Department still owes her money for both programs.

There are five people living in Petitioner's home including herself. Petitioner is an ineligible grantee for FIP purposes because she is a Supplemental Security Income (SSI) recipient. The Department asserts that Petitioner's FIP group size is three, and the Petitioner agrees. The FIP monthly assistance payment standard is \$420.00 per month for a group size of three with an ineligible grantee.

Petitioner received the following FIP payments:

\$ [REDACTED] on September 09, 2018 for the period 9/01/2018 through 9/15/2018
\$ [REDACTED] on September 19, 2018 for the period 9/16/2018 through 9/30/2018

\$ [REDACTED] on October 08, 2018 for the period 10/01/2018 through 10/15/2018
\$ [REDACTED] on October 19, 2018 for the period 10/16/2018 through 10/31/2018

\$ [REDACTED] on November 09, 2018 for the period 11/01/2018 through 11/15/2018
\$ [REDACTED] on November 19, 2018 for the period 11/16/2018 through 11/30/2018
\$ [REDACTED] on February 06, 2019 for the period 11/01/2018 through 11/30/2018

\$ [REDACTED] on December 09, 2018 for the period 12/01/2018 through 12/15/2018
\$ [REDACTED] on December 19, 2018 for the period 12/16/2018 through 12/31/2018
\$ [REDACTED] on January 23, 2019 for the period 12/01/2018 through 12/31/2018

\$ [REDACTED] on January 09, 2019 for the period 01/01/2019 through 01/15/2019
\$ [REDACTED] on January 19, 2019 for the period 01/16/2019 through 01/31/2019
\$ [REDACTED] on January 23, 2019 for the period 01/01/2019 through 01/31/2019

\$ [REDACTED] on February 09, 2019 for the period 02/01/2019 through 02/15/2019
\$ [REDACTED] on February 19, 2019 for the period 02/16/2019 through 02/28/2019
\$ [REDACTED] on February 1, 2019 for the period 02/01/2019 through 02/28/2019

Based upon this review, the Department failed to issue supplements to Petitioner in September 2018. The Department did not present any evidence as to why supplements were not issued for this month. ALJ's decision from docket number 18-012493 required the Department to review FIP eligibility from September 2018, but it appears that the Department did not complete the review. Therefore, the Department has not met its burden of proof that it complied with ALJ's order.

For October 2018, Petitioner was originally issued \$ [REDACTED] based upon a group size of three with an ineligible grantee. Therefore, no supplements were due.

For November 2018 through February 2019, the Department issued Petitioner regularly biweekly payments and a supplement which combined to total \$ [REDACTED] which is the benefit amount she was entitled to receive based upon a group size of three with an ineligible grantee. RFT 210 (April 2017), p. 1.

Food Assistance Program (FAP)

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.

As mentioned above, Petitioner disputed the Department's implementation of ALJ's decision, specifically the issuance of supplements. The only evidence presented at the hearing was a benefit summary inquiry showing the amounts of benefits previously issued and the supplements that were issued in response to ALJ's decision. This evidence is insufficient to determine whether the Department issued the correct supplement to Petitioner because Petitioner's household had income and expenses which were considered by the Department. None of this evidence was presented. The hearing packet was void of any relevant documentation to support the Department's case.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the MOAHR for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

In this case, Petitioner submitted a hearing request objecting to the Department's implementation of ALJ's order. The hearing summary provided by the Department stated, in part, as follows: "Due to a help desk issue, FAP was delayed but has been resolved and issued." Exhibit A, p. 1. Importantly, no budgets, Bridges screen shots showing income or expenses or household members, or any other information to glean an insight into the details of Petitioner's FAP budget was presented.

The Department bears the burden of showing that its challenged actions were taken in compliance with law and policy. To do so, the Department must at least explain why it took the action and provide documentary evidence of the action taken. The Department failed to do either. Thus, the Department failed to meet its burden of proof and must be reversed.

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 issued FIP benefits for October 2018 through February 2019, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it reviewed the September 2018 FIP benefits as well as the FAP benefits from October 2018 through February 2019.

DECISION AND ORDER

Petitioner's request for hearing as it relates to the **SER** program is **DISMISSED**.

The Department's decision is **AFFIRMED IN PART** with respect to the Department's issuance of FIP benefits from October 2018 through February 2019 and **REVERSED IN PART** with respect to the Department's issuance of FIP benefits for September 2018 and the Department's issuance of FAP supplements from October 2018 through February 2019 in compliance with MAHS docket number 18-012493.

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. Reprocess Petitioner's FIP eligibility for September 2018;
2. Reprocess Petitioner's FAP eligibility for October 2018 through February 2019;
3. If Petitioner is eligible for FIP or FAP benefits for the applicable periods, issue supplements to Petitioner for benefits not previously received; and,
4. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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 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

Keisha Koger-Roper
MDHHS-Wayne-55-Hearings

Petitioner

[REDACTED]
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BSC4
T Bair
E Holzhausen
B Sanborn
B Cabanaw
M Holden
D Sweeney