



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 26, 2019
MOAHR Docket No.: 19-002142
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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, a telephone hearing was held on April 4, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Sandra Kahill, Family Independence Specialist. During the hearing, a 29-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-29.

ISSUE

Did the Department properly determine Petitioner's cash benefits under the Family Independence Program (FIP)?

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

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 November 15, 2018, Petitioner submitted an application seeking cash assistance under the FIP and FAP benefits. Petitioner lived with her husband, their four children, and four children who were previously wards of the state and placed in Petitioner's care on September 6, 2018.

2. On December 13, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her cash assistance benefits were approved for December 1, 2018, ongoing, at the maximum allowable rate of \$557 per month. The Notice of Case Action further informed Petitioner that her FAP application was denied as a result of Petitioner having excess income for eligibility. Exhibit A, pp. 26-29.
3. On February 19, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her cash assistance case was closing, effective April 1, 2019, as a result of the alleged failure of a household member to complete the Family Self-Sufficiency Place (FSSP). Exhibit A, pp. 5-7.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to her FIP cash assistance and FAP benefits.
5. On March 6, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP cash assistance benefits were approved at the highest maximum rate of \$557 per month, effective April 1, 2019, ongoing. Exhibit A, pp. 8-10.

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).

In this case, Petitioner filed a November 15, 2018, application for FIP cash assistance and FAP benefits. Petitioner's household consisted of herself, her husband, the four children of Petitioner and her husband, and four children who are wards of the state that Petitioner has custody over as of September 6, 2018. Petitioner explained during the hearing that she only wanted to apply for benefits for the four children who are wards of the state.

After processing Petitioner's application, Petitioner was approved for the maximum amount of FIP cash assistance benefits of \$557 per month for the four children. In February 2019, the Department issued to Petitioner an erroneous Notice of Case Action that improperly informed Petitioner that her FIP cash assistance benefits would end effective April 1, 2019. Shortly thereafter, a corrected Notice of Case Action was issued that informed Petitioner that her FIP cash assistance benefits were approved at the previously mentioned maximum rate. Thus, since applying, Petitioner has received the full amount of FIP cash assistance benefits allowable and will continue to do so unless there is a change in circumstance or law.

Petitioner's FAP application, however, was denied as the Department found that Petitioner was over the income limit for eligibility. Petitioner's objection to this finding is that she only wanted the Department to determine FAP benefits for the four children while excluding her household's income from the equation.

FIP CASH ASSISTANCE

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.

Petitioner applied for FIP benefits for the four children who were wards of the state. Where an unrelated caretaker receives FIP cash assistance based on solely on the presence of a child placed in the home by children's services, the caretaker is designated as an ineligible grantee. RFT 210 (April 2017), pp. 1-2. The Department is required to use the ineligible grantee payment in such circumstances. RFT 210, p. 1. The maximum FIP cash assistance allowable for a group of four with an ineligible grantee is \$557 per month. RFT 210, p. 1.

Petitioner was approved for FIP cash assistance in the amount of \$557 for a group of four that has an ineligible grantee. As that is the maximum amount allowable by law, Petitioner may not be granted anything additional.

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 that Petitioner was eligible for \$557 per month in FIP cash assistance.

FAP DENIAL

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.

Petitioner objected to the Department's inclusion of Petitioner and Petitioner's husband and their income in the FAP calculation. Petitioner wanted the FAP group to include only the four children who were wards of the state.

A FAP group includes all individuals who live together and prepare food together. BEM 212 (January 2017), pp. 1-2. Based on the record, Petitioner lived and prepared food with her husband, their four children, and the four children who were wards of the state.

Thus, Petitioner's FAP group size should have been ten. However, the Department for some reason determined Petitioner's eligibility based on a FAP group size of eight.

Additionally, the determination that Petitioner's group was ineligible was based on the Department's conclusion that Petitioner's household had \$4,417 in unearned income per month. During the hearing, the Department was unable to provide a reasonable explanation for how the income was calculated.

Furthermore, the record shows that Petitioner's household includes disabled individuals. In determining FAP benefits for groups that include a disabled individual, the Department is required to deduct medical expenses. BEM 554 (August 2017), pp. 8-12. However, no deduction was provided despite Petitioner's credible testimony that she reported the disability and expenses to the Department.

The Department failed to show that it properly determined Petitioner's FAP group size or income. Thus, the decisions based on those figures cannot be sustained. 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FAP benefits.

DECISION AND ORDER

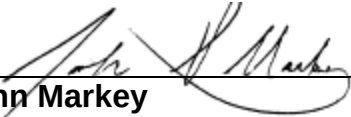
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FIP cash assistance and **REVERSED IN PART** with respect to FAP.

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 application for FAP benefits;
2. If any eligibility related information is unclear, inconsistent, or contradictory, the Department must follow Department policy in issuing verifications checklists to Petitioner;
3. Determine Petitioner's group size, income, and expenses pursuant to Department policy;
4. Determine Petitioner's FAP benefits, December 1, 2018, ongoing;
5. If Petitioner is eligible for additional benefits, promptly issue to Petitioner a supplement; and

6. Notify Petitioner in writing of its decisions.

JM/cg


John Markey
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 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-Macomb-20-Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]