



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: April 8, 2019
MAHS Docket No.: 19-002281
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 April 5, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Assistance Payments Worker, Korri Thompson, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 19-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefit?

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.
2. Petitioner has a household size of two, Petitioner pays \$ [REDACTED] for housing, and Petitioner is responsible for heat and electricity in addition to her housing cost.
3. On November 2, 2018, Petitioner obtained employment at [REDACTED]

4. [REDACTED] pays Petitioner \$ [REDACTED] per hour, and Petitioner works varying hours each week.
5. Petitioner reported to the Department that she obtained employment at [REDACTED]. Petitioner provided copies of her check stubs to the Department. Petitioner's check stubs showed that (a) Petitioner received biweekly gross pay of \$ [REDACTED] on February 8, 2019, (b) Petitioner received a gift in the gross amount of \$ [REDACTED] on February 14, 2019, (c) Petitioner received biweekly gross pay of \$ [REDACTED] on February 22, 2019, (d) Petitioner received biweekly gross pay of \$ [REDACTED] on March 8, 2019.
6. The Department reevaluated Petitioner's eligibility for assistance based on her income from her new employment at [REDACTED]. The Department determined that Petitioner had a monthly income of \$ [REDACTED] from employment.
7. On February 14, 2019, the Department issued a Notice of Case Action to Petitioner to notify her that her FAP benefits were going to be decreased to \$15.00 per month effective March 1, 2019.
8. On March 6, 2019, Petitioner filed a hearing request to dispute the Department's decision.

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 present sufficient evidence to establish that it acted in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefits. Although the Department properly reevaluated Petitioner's eligibility for assistance based on her reported income from employment, the Department did not present any evidence to establish that it correctly budgeted Petitioner's monthly income at \$ [REDACTED] per month. When asked to describe how the Department determined that Petitioner had a monthly income of \$ [REDACTED] per month, the Department replied that \$ [REDACTED] was the number generated by the Department's computer program based on the data it entered from Petitioner's check stubs. The Department's explanation was insufficient to establish that the Department budgeted Petitioner's income in accordance

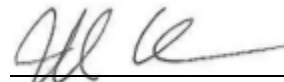
with its policies and the applicable law. Specifically, the Department did not provide any evidence to establish it budgeted Petitioner's income in accordance with BEM 505 (October 1, 2017).

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 it reduced Petitioner's FAP benefit amount.

IT IS ORDERED the Department's decision is REVERSED. The Department shall begin to implement this order within 10 days.

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

Denise McCoggle
27260 Plymouth Rd
Redford, MI
48239

Wayne 55 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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