



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 30, 2019
MOAHR Docket No.: 19-003056
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, telephone hearing was held on April 24, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Alisha Caldwell.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility 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 February 22, 2019, the Department verified that Petitioner received unemployment compensation benefits from January 5, 2019, through February 16, 2019, and that she had three weeks of benefits remaining. Exhibit A, pp 5-6.
2. On February 22, 2019, the Department notified Petitioner that she was eligible for a \$234 monthly allotment of Food Assistance Program (FAP) benefits as a group of five effective April 1, 2019. Exhibit A, pp 2-4.
3. On March 8, 2019, the Department determined that Petitioner was no longer noncooperative with the Office of Child Support. Exhibit A, p 10.

4. On March 9, 2019, the Department notified Petitioner that she was eligible for a \$325 monthly allotment of Food Assistance Program (FAP) benefits as a group of six effective April 1, 2019. Exhibit A, pp 11-2.
5. On March 18, 2019, the Department received Petitioner's request for a hearing.
6. On March 18, 2019, Petitioner reported that her unemployment compensation benefits had ended.
7. On March 22, 2019, the Department notified Petitioner that she was eligible for a \$826 monthly allotment of Food Assistance Program (FAP) benefits as a group of six effective May 1, 2019. Exhibit A, pp 17-18.
8. On March 26, 2019, the Department received verification that Petitioner's unemployment compensation benefits had ended March 16, 2019. Exhibit A, pp 19-20.

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.

A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

On February 22, 2019, the Department verified that Petitioner was receiving unemployment compensation benefits and redetermined her eligibility for ongoing FAP benefits. On February 22, 2019, the Department notified Petitioner that she was eligible for a \$234 monthly allotment of FAP benefits as a group of five effective April 1, 2019, which was the first benefit period at least 12 calendar days following the determination that benefits would decrease. Petitioner's was receiving FAP as a group of five due to a sanction for noncooperation with the Office of Child Support.

On March 8, 2019, the noncooperation sanction was removed, and on March 9, 2019, the Department notified Petitioner that she was eligible for a \$325 monthly allotment of FAP benefits as a group of six effective April 1, 2019.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. The Department will not process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), p 11.

On March 18, 2019, Petitioner reported to the Department that her unemployment compensation benefits had ended. On March 22, 2019, the Department notified Petitioner that she was eligible for a \$826 monthly allotment of FAP benefits as a group of six effective May 1, 2019.

On March 19, 2019, Petitioner reported a decrease of income in a timely manner and the decrease of household income was verified within 10 days.

However, the Department failed to make the income decrease that resulted in a benefit increase no later than the first allotment issued 10 days after the date the change was reported as directed by BEM 505.

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 Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective April 1, 2019.


DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

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:

Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) as of April 1, 2019, and issue the Petitioner any retroactive benefits XXX may be eligible to receive, if any.

KS/dh



Kevin Scully
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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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