



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] MI [REDACTED]

Date Mailed: May 3, 2019
MOAHR Docket No.: 19-003326
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 May 3, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented himself. Dawn McCoy, Hearing Facilitator, 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. An 11-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's 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. Petitioner is a FAP benefit recipient through the Department's Michigan Combined Application Project (MiCAP).
2. On November 21, 2018, the Department issued a notice of case action to notify Petitioner that his FAP benefit was decreasing to \$100.00 per month effective January 1, 2019, based on a change in policy. The notice advised Petitioner that as of 2019 benefit amounts were (a) \$100.00 per month for clients with monthly housing costs below \$1,000.00 and (b) \$190.00 per month for clients with monthly housing costs of \$1,000.00 or more.

3. On March 29, 2019, Petitioner requested a hearing to dispute his FAP benefits.
4. On April 1, 2019, Petitioner appeared at a prehearing conference and reported an increase in his housing costs.
5. The Department increased Petitioner's FAP benefit to \$190.00 effective April 1, 2019, based on the reported change.

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 client has 90 days from the date of written notice of case action to file a hearing request to dispute it. BAM 600 (October 1, 2018), p. 6. Here, Petitioner filed a hearing request more than 90 days from the date of the Department's November 21, 2018, written notice of case action. Thus, Petitioner's hearing request was filed too late to dispute it. However, for FAP benefits, a client may file a hearing request at any time to dispute his current FAP benefit amount. BAM 600, p. 7. Therefore, Petitioner's hearing request will be considered regarding his current FAP benefit amount as of the date he filed his hearing request. Since Petitioner's FAP benefit amount as of the date he filed his hearing request was \$100.00 per month, the issue is whether the Department properly determined that Petitioner's FAP benefit amount was \$100.00 as of March 2019.

The Department properly determined Petitioner's March 2019 FAP benefit amount. On November 21, 2018, the Department advised Petitioner that his FAP benefit amount would be \$100.00 per month because his monthly housing costs were less than \$1,000.00. In order to have a change in housing expenses processed, Petitioner was required to report the change to the Department within 10 days of the date of the change so that the Department could process it for the month of the change. BAM 105 (January 1, 2019) and BAM 220 (January 1, 2019). Petitioner did not report a change in his housing expenses until April 2019, so the first month that the reported change could affect was April 2019.

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 act in accordance with its policies and the applicable law when it determined Petitioner's March 2019 FAP benefit.

IT IS ORDERED the Department's decision is AFFIRMED.

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 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

Nicolette Vanhavel
235 S Grand Ave Ste 1207
Lansing, MI
48933

MiCap-SSPC County DHHS- via
electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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