



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: May 13, 2019
MOAHR Docket No.: 19-003546
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 8, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented himself. April Nemeč, 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. A 50-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.
2. On March 18, 2015, Petitioner was ordered to pay the Department \$1,802.00 for an intentional program violation related to FAP benefits.
3. On December 27, 2018, Petitioner filed a claim for unemployment compensation. The Unemployment Insurance Agency found Petitioner eligible for \$ [REDACTED] per week effective December 23, 2018.

4. On March 18, 2019, the Department reviewed Petitioner's eligibility for FAP benefits. The Department discovered that Petitioner was receiving unemployment compensation, so the Department updated its budget to account for Petitioner's income. Based on the updated budget, the Department determined that Petitioner's FAP benefits had to be reduced to \$15.00 per month.
5. On March 25, 2019, the Department issued a notice of case action which notified Petitioner that he was eligible for a \$0.00 FAP benefit effective April 1, 2019. The notice advised the Petitioner's FAP benefit amount was \$15.00 per month, but that the full amount was being reduced to repay the balance of his intentional program violation debt.
6. On April 2, 2019, Petitioner filed a hearing request to dispute his FAP benefit amount.

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 determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (April 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2018). To determine a client's countable income, the Department considers the expenses and deductions that a client is entitled to such as the standard deduction and the excess shelter expense. Here, Petitioner was entitled to a standard deduction of \$158.00 for a household size of one, and Petitioner was entitled to an excess shelter expense of \$144.00 (taking into account Petitioner's housing expenses and the heat utility standard). Petitioner's income from unemployment compensation less the expenses and deductions that he was entitled to results in a countable income of \$ [REDACTED]

Once the Department determines a client's countable income, the Department looks it up in its Food Issuance Table to determine the maximum FAP benefit the client is entitled to receive. A client with a household size of one and a countable income of

\$[REDACTED] in April 2019 was entitled to a maximum FAP benefit of \$15.00 per month. The Department properly determined Petitioner's FAP benefit amount when the Department determined that Petitioner was eligible for a FAP benefit of \$15.00 per month effective April 1, 2019.

The Department also properly reduced Petitioner's \$15.00 FAP benefit to \$0.00 to repay the balance of his intentional program violation debt. Active programs are subject to administrative recoupment for repayment. BAM 725 (October 1, 2017), p. 6. Administrative recoupment for a FAP intentional program violation debt is the greater of 20% or \$20.00. BAM 725, p. 7. Here, Petitioner's FAP benefit amount was less than \$20.00, so the Department's policy permitted it to reduce the entire amount to pay down his intentional program violation debt.

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 determined Petitioner's FAP benefit amount and when it reduced it to repay his intentional program violation debt.

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

Tamara Morris
125 E. Union St 7th Floor
Flint, MI
48502

Genesee Union St. County DHHS- via
electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED]
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[REDACTED]