



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 22, 2019
MOAHR Docket No.: 19-003931
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 16, 2019, from Lansing, Michigan. The Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Terry Old, Hearings Specialist and Amy Turner, AP Supervisor.

ISSUE

Did the Department properly process Petitioner's FAP budget?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner has been a FAP recipient.
2. On [REDACTED] 2019 Petitioner completed a FAP redetermination for March online.
3. On February 15, 2019 the interview was completed, and a verification checklist generated.
4. On April 16, 2019 the Department processed the verifications and approved the FAP budget.
5. On April 23, 2019 the Department issued a benefit notice stating that effective May 1, 2019 and ongoing Petitioner's FAP benefits will be \$38.00.

6. On April 12, 2019 Petitioner filed a hearing request disputing the standard of promptness.

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.

Applicable policy is found BEM 554, 500-505, and corresponding federal regulations are found at 7 CFR 273.10.

In this case, Petitioner's original hearing request argued for benefits for the month April 2019, on the grounds that the Department failed to meet its 45-day standard of promptness. Petitioner is correct that the Department failed to meet its standard of promptness. However, the standard of promptness is a right without a remedy; Petitioner cannot prevail to receive more benefits than he is entitled to under policy simply where the standard of promptness has not been met. Petitioner failed to offer any law or policy here that would show that he was entitled to benefits before the issuance of the benefits as indicated on Exhibit A.30. On this part of the issue, the Department has met its burden of going forward and is upheld.

Petitioner also argued that the Department failed to correctly apply his medical bills to his FAP budget. This argument was very confusing as the Department failed to bring the bills to the administrative hearing. The Department argued that Petitioner did not file a hearing request based on the application of the bills, and thus, the Department was not prepared to discuss the same. Petitioner pointed to his hearing request. However, it appears that Petitioner added pages to his hearing request after filing his April 12, 2019 request for hearing. The additional pages were dated May 6, 2019 but added to the original hearing request and forwarded to MOAHR without proof of service on the Department.

The Department presented testimony that policy allows for the application of medical bills on one month, or over many months. Here, the Department indicated that they had no information or knowledge that Petitioner requested to his medical bills prorated over a number of months, vs just 1 month. It would be beneficial to Petitioner's allotment to have the bills prorated over a number of months, but the Department is entitled to apply medical bills on 1 month, unless Petitioner requests otherwise.

The dispute here is basically that Petitioner argues that he did request the application of the medical bills prorated. The Department argues that Petitioner did not, so they applied the bills to one month.


It is a well-established evidentiary rule that where the arguments by opposing sides is no more than equivocal, the party with the burden of proof loses. Here, the Department met its burden of going forward; the Department's application of the bills is supported by policy. Here, Petitioner did not give the Department fair warning that he may dispute that application at hearing, so the Department did not bring the bills to hearing to be examined or include them in the packet. Nor did the Petitioner have any evidence to corroborate his request to have the medical bills prorated.

Under these facts and based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, this ALJ must find that the Department acted in accordance with Department policy when it when it calculated Petitioner's FAP budget. As such, the Department's action must be upheld.

DECISION AND ORDER

Accordingly, the Department's processing of Petitioner's FAP benefits was correct and thus, the FAP allotment correct and is **AFFIRMED**.

JS/nr



Janice Spodarek
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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Denise Croff
301 E. Louis Glick Hwy.
Jackson, MI
49201

Jackson County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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