



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: July 25, 2019
MOAHR Docket No.: 19-006589
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, an administrative hearing was held on July 24, 2019, from Lansing, Michigan. Petitioner personally appeared and testified. Petitioner call [REDACTED] as a witness.

The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's FAP and MA deductible 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. At all relevant times, Petitioner has been a FAP and MA recipient.
2. Petitioner receives RSDI income of \$1,080.00 and child support of \$89.46 per month.
3. On May 1, 2019 the Department issued a Notice of Case Action informing Petitioner that her FAP benefits beginning June 1, 2019, will be \$15.00/month. The Department's budget indicated that Petitioner's income was \$1060.00 (which is less than verified on the SOLQ). The Department budgeted more child support than Petitioner receives, which the Department subsequently corrected. The

subsequent correct of the child support did not change the allotment. The Department did not budget rent. Ex A.58.

4. For the benefit period beginning July 1, 2019, Petitioner's MA budget shows unearned income of \$1178.00, net unearned of \$1158.00, Part D deduction of \$39.30, and general income exclusion of \$20.00. The budget indicates that Petitioner's MA eligibility results in a \$710.00 spend-down per month. Ex A.109.
5. On June 17, 2019 Petitioner filed a hearing request.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The jurisdiction of an administrative law judge is to review the action(s) taken by the Department, at the time the Department took the action, and to make a determination if that action is correct under federal and state law.

Applicable policy is found in BAM 105, 115; and BEM 554, 500-550, and 556. Corresponding federal regulations are found at 7 CFR 273.10, 273.2, 273.11, 273.1, and 273.2.

Here, there were a number of changes in Petitioner's verifications regarding rent, utilities, and variable child support income payments from two different fathers. After isolating the actions at issue here, and the corresponding evidence the Department had in its possession at the time it took the action, the evidence was unrefuted. As such,

there was no dispute as to the FAP allotment at \$15.00 per month, or to the \$711.00 deductible. As such, the actions must be upheld.


If Petitioner understands that should there be changes and/or modifications to the allotment and the deductible, then Petitioner would have a right to a hearing on any new Notices of Case Action. As this case stands, based on this evidence, the Department actions were correct and are upheld.

DECISION AND ORDER

Accordingly, the Department's FAP allotment calculation and MA deductible calculation was correct and thus, the actions by the Department are therefore,

AFFIRMED.

JS/dh



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 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 County, DHHS

BSC2 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI