



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 5, 2019
MOAHR Docket No.: 19-006720
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 July 30, 2019, from Lansing, Michigan. The Petitioner was represented by herself. [REDACTED] [REDACTED] also appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by Terri Hutchison, AP Supervisor. Tisha Miller, Payments Specialist, also appeared and testified for the Department. Department Exhibit 1, pp. 1-23 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program 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 May 9, 2019, Notice of Case Action was sent to Petitioner informing her that her FAP benefits would be reduced to \$15 effective June 1, 2019.
2. On June 17, 2019, a Health Care Coverage Determination Notice as sent to Petitioner informing her that she was not eligible for MA.
3. On June 16, 2019, Petitioner requested hearing disputing MA and FAP.
4. MA was reinstated and Petitioner had no gap in coverage. Petitioner was satisfied with the determination of her MA benefits.
5. Petitioner currently receives \$353 in FAP benefits from July 1, 2019 going forward.

6. Petitioner received employment income on [REDACTED], 2019 from the [REDACTED] [REDACTED] in the amount of \$ [REDACTED]

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.

Stopping Income

For stopping income, budget the final income expected to be received in the benefit month. Use the best available information to determine the amount of the last check expected. Use information from the source and from the client. Remove stopped income from the budget for future months. BEM 505

In this case, Petitioner was satisfied with the determination of her MA benefits. With regard to FAP benefits, Petitioner was satisfied with her current FAP benefits of \$353 per month from July 2019 going forward. The issue in dispute at hearing was Petitioner's FAP benefits for May and June 2019. The Department did not provide the budgets from May and June in the hearing packet. The undersigned Administrative Law Judge requested that a benefit summary inquiry printout and budgets be faxed to MOAHR for the months in question and the fax number was provided. No documents were received. Without that requested information the Department has failed to establish that it acted in accordance with Department policy in determining Petitioner's employment income and FAP benefits for the months in question. BEM 505, 7 CFR 273.9

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefits.


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:

1. Reinstate Petitioner's FAP benefits going back to the date of reduction.
2. Issue a supplement to Petitioner for any increase in benefits.

AM/nr



Aaron McClintic
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

Denise McCoggle
27260 Plymouth Rd
Redford, MI
48239

Wayne 55 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
MI