



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: August 27, 2019
MOAHR Docket No.: 19-007834
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 August 22, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Eligibility Specialist, Benita Davis-Ivory, 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 17-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) eligibility?

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 has a household size of one. Petitioner's household income consists of \$ [REDACTED] from social security. Petitioner is not responsible for paying for her own heat. Petitioner is responsible for paying for her own electric and telephone.
2. Petitioner has Medicare. Effective September 1, 2019, the Department is going to cover Petitioner's Medicare premium through the Medicare Savings Program (MSP).
3. Petitioner is a FAP benefit recipient.

4. The Department reviewed Petitioner's FAP budget and determined that Petitioner had a medical expense improperly budgeted. Petitioner had a monthly medical expense of \$365.00 budgeted, but Petitioner should have only had a one-time expense budgeted. The Department removed the one-time expense, which resulted in a decrease in Petitioner's FAP benefit amount.
5. On June 27, 2019, the Department issued a notice of case action to Petitioner to notify her that her FAP benefit was going to be reduced to \$48.00 per month effective August 1, 2019.
6. On July 24, 2019, Petitioner filed a hearing request to dispute the Department's decision.

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 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 (January 1, 2017), BEM 213 (January 1, 2018), BEM 550 (January 1, 2017), BEM 554 (August 1, 2017), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2017). Here, the Department corrected its budget to remove a medical expense that was erroneously included by the Department. Petitioner did not present any evidence to establish that the medical expense should have been included, so I must find that the Department acted appropriately. Based on Petitioner's group size of one and her countable income, Petitioner was only eligible for a FAP benefit of \$15.00 per month effective August 1, 2019.

The Department erroneously determined that Petitioner was eligible for a FAP benefit of \$48.00 per month effective August 1, 2019, because the Department budgeted the heat and utility standard of \$543.00 when Petitioner was not entitled to it since she is not responsible for paying for her own heat in addition to her housing. The Department should have only budgeted the electric standard of \$135.00 and the telephone standard of \$31.00. Adjusting these standards reduces Petitioner's FAP benefit amount to \$15.00 per month.

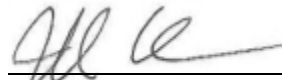
Additionally, effective September 1, 2019, Petitioner will not be entitled to the medical expense deduction of \$101.00 for her Medicare premium because the Department will be covering it. As a result, effective September 1, 2019, the medical expense should be removed from the Department's budget. With this adjustment, Petitioner's FAP benefit amount remains \$15.00 per month.

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 food assistance benefit amount.

IT IS ORDERED the Department's decision is **REVERSED**. The Department initiate a review of Petitioner's FAP budget consistent with this decision. The Department shall begin to implement this decision within 10 days.

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

Denise McCoggle
27260 Plymouth Rd
Redford, MI
48239

Wayne 15 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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