



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: September 5, 2019
MOAHR Docket No.: 19-008190
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 August 19, 2019, from Lansing, Michigan.

Petitioner personally appeared and testified unrepresented.

The Department of Health and Human Services (Department) was represented by Susan Foreman, FIP.

ISSUE

Did the Department properly calculate Petitioner's FAP at review?

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 beneficiary of FAP welfare program.
2. In July 2018, Petitioner received a LIHEAP payment, which resulted in a FAP allotment of \$192.00 per month.
3. At review in July 2019, Petitioner did not receive the LIHEAP payment which resulted in a FAP allotment of \$83.00, noticed on July 20, 2019.
4. On July 29, 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.

In this case, under BEM 554 individuals who receive a LIHEAP payment from Lansing are eligible for a standard heat and utility standard deduction on their FAP budget. Here, evidence shows that Petitioner received this payment in July 2018, resulting in a FAP allotment of \$192.00.

In July 2019, Petitioner did not receive the LIHEAP payment. Unrefuted evidence of record is that Petitioner does not pay any utilities and thus, has no utility deduction on his FAP budget. The Respondent's FAP budget shows that Petitioner is eligible for \$83.00 per month. Petitioner does not dispute any of the figures used by the Respondent on the July 2019 FAP budget.


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 acted in accordance with Department policy when it calculated Petitioner's 2019 FAP budget. Thus, the Respondent's action is upheld.

It is noted that the Respondent indicated that Petitioner may not have been eligible for the July 2018 LIHEAP payment. However, the Respondent indicated that such is not relevant herein, and that such would not trigger any repayment/recoupment.

DECISION AND ORDER

Accordingly, the Department's decision 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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Alison Gordon
430 Barfield Drive
Hastings, MI
49058

Barry County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI