



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 23, 2019
MOAHR Docket No.: 19-008914
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 September 19, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Tiara Dickerson, Eligibility Specialist, appear on its behalf. The Department also had Lashana Threlkeld, Supervisor, appear as a witness. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 27-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) benefit?

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 is a FAP recipient.
2. Petitioner has a household size of one. Petitioner receives \$ [REDACTED] per month from social security. Petitioner pays \$ [REDACTED] per month for rent. Petitioner is responsible for his electric and telephone utilities, but not his heat utility.

3. On December 18, 2018, the Department issued a notice of case action which approved Petitioner for a monthly FAP benefit of \$ [REDACTED] per month effective January 1, 2019.
4. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request to dispute his FAP benefit amount.

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) 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.

A client has 90 days from the date of written notice of case action to file a hearing request to dispute it. BAM 600 (July 1, 2019), p. 6. Here, Petitioner filed a hearing request more than 90 days from the date of the Department's December 18, 2018, written notice of case action. Thus, Petitioner's hearing request was filed too late to dispute the Department's notice of case action. However, for FAP benefits, a client may file a hearing request at any time to dispute his current FAP benefit amount. *Id.* at 7. Therefore, Petitioner's hearing request will be considered regarding his current FAP benefit amount as of the date he filed his hearing request. Since Petitioner's FAP benefit amount as of the date he filed his hearing request was \$ [REDACTED] per month, the issue is whether the Department properly determined that Petitioner's FAP benefit amount was \$ [REDACTED] as of August 2019.

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 (July 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (July 1, 2019), RFT 255 (October 1, 2018), and RFT 260 (October 1, 2018). Here, Petitioner did not present sufficient evidence to establish that the Department did not properly determine his FAP benefit. Petitioner did not present any evidence to establish that his household income or allowable expenses were different than those used by the Department, and Petitioner did not present any evidence to establish that his group size was greater than that used by the Department. Based on a review of the budget used by the Department and the applicable Food Issuance Table, the Department used the correct standard deductions and correctly determined Petitioner's FAP benefit amount based on his countable household income and group size.

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 FAP benefit amount.

IT IS ORDERED the Department's decision is **AFFIRMED**.

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

Renee Swiercz
51111 Woodward Ave 5th Floor
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Oakland 4 County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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