



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: September 23, 2019
MOAHR Docket No.: 19-009026
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] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Carolyn Begley, Lead Worker, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 21-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 benefit recipient.
2. Petitioner has a household size of three. Petitioner's source of income is social security, which paid her a benefit of \$ [REDACTED] in August and then \$ [REDACTED] per month starting in September. Petitioner's daughter has a job and earns income of approximately \$ [REDACTED] per month, though it varies.

3. On June 4, 2019, the Department mailed a redetermination to Petitioner which instructed Petitioner to provide the Department with information so that the Department could review her eligibility for FAP. The redetermination instructed Petitioner to provide the requested information to the Department by July 1, 2019.
4. On July 28, 2019, Petitioner returned the requested information to the Department.
5. On August 6, 2019, the Department interviewed Petitioner.
6. On August 9, 2019, Petitioner turned in additional documentation to the Department.
7. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request to dispute her FAP benefit amount.
8. On August 14, 2019, the Department issued a notice of case action which notified Petitioner that she was approved for a FAP benefit of \$51.00 for August 6 to August 31, 2019, and then \$48.00 per month thereafter.
9. The Department did not consider all of Petitioner's documented expenses when it determined Petitioner's FAP benefit.

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.

In this case, Petitioner is disputing her FAP benefit amount. Specifically, Petitioner is disputing her FAP benefit amount after her redetermination. 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).

Both parties agree that Petitioner provided documents to the Department which the Department failed to consider when it budgeted Petitioner's FAP benefit. Some of the

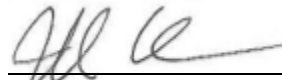
documents were pertaining to Petitioner's housing and medical expenses, which should have been considered when determining Petitioner's FAP benefit. Since Petitioner provided documentation of expenses and the Department did not consider them, the Department did not properly determine Petitioner's FAP benefit in accordance with its policies and the applicable law. Therefore, the Department must review its budget, consider all expenses which it has documentation of, and then issue a new notice of case action.

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 not 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 **REVERSED**. 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

Deborah Little
5131 Grand River Ave.
Detroit, MI
48208

Wayne 49 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI
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