



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 30, 2019
MOAHR Docket No.: 19-009415
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 26, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Michelle Pruitt, Eligibility Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence. A 23-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 for August 2019?

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 two. Petitioner's monthly household income consists of Supplemental Security Income (SSI) of \$ [REDACTED] and Retirement, Survivors, and Disability Insurance (RSDI) of \$ [REDACTED] Family Independence Program (FIP) of \$ [REDACTED] and child support of \$ [REDACTED]. Petitioner's housing costs total \$8.00 per month. Petitioner is responsible for her own heating utilities in addition to her housing costs.

3. Petitioner's income and expenses were the same in August 2019 and September 2019.
4. The Department found Petitioner eligible for a FAP benefit of \$134.00 for August 2019.
5. On August 8, 2019, the Department issued a notice of case action to Petitioner which notified Petitioner that the Department found Petitioner eligible for a FAP benefit of \$208.00 for September 2019.
6. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request to dispute her August 2019 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) [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.

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 filed her hearing request on August 29, 2019, after she received a notice of case action dated August 8, 2019. The August 8, 2019, notice of case action notified Petitioner that her FAP benefit would be \$208.00 per month effective September 2019. Petitioner filed her hearing request to dispute months preceding September 2019.

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. Petitioner did not identify any notice of case action that she filed a timely hearing request to dispute. Thus, I must find that Petitioner did not file a timely hearing request. However, for FAP benefits, a client may file a hearing request at any time to dispute her current FAP benefit amount. *Id.* at 7. Therefore, Petitioner's hearing request will be considered regarding her current FAP benefit amount as of the date she filed her hearing request. Since Petitioner's FAP

benefit amount as of the date she filed her hearing request was \$134.00 per month, the issue is whether the Department properly determined that Petitioner's FAP benefit amount was \$134.00 as of August 2019.

Petitioner and the Department agreed that Petitioner's income and expenses were the same in August 2019 and September 2019. Further, Petitioner and the Department agreed that Petitioner's August 2019 and September 2019 FAP benefit amounts varied. The Department was unable to provide any explanation for the difference in the FAP benefit amounts.


Based on the testimony of the parties, Petitioner has established that the Department did not properly budget her August 2019 FAP benefit amount. Therefore, the Department must initiate a review of its budget, issue a new notice to Petitioner regarding her August 2019 FAP benefit amount, and issue Petitioner a supplement if the Department determines that it issued Petitioner a FAP benefit less than what she was eligible for.

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 food assistance benefit amount for August 2019.

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

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

[REDACTED]
MI