



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

Date Mailed: October 4, 2019
MOAHR Docket No.: 19-009577
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 30, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 20, 2019, the Department completed an update of all cases for eligibility in the Low-Income Home Energy Assistance Payment (LIHEAP) program.
2. Petitioner lost his eligibility for the LIHEAP.
3. On the same day, the Department issued a Notice of Case Action to Petitioner informing him that his FAP benefits had been reduced to [REDACTED] per month effective September 1, 2019 because his shelter deduction had changed because he lost the LIHEAP.
4. On August 30, 2019, the Department received Petitioner's request for hearing disputing the Department's reduction in his FAP benefit rate.

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, Petitioner disputes the Department's reduction in his FAP benefit rate after the loss of his LIHEAP which resulted in the loss of his heat and utility standard deduction (H/U).

To determine whether the Department properly calculated Petitioner's FAP benefit rate, first all countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Since Petitioner receives a monthly pension benefit of [REDACTED] per month, no further standardization of his income is necessary.

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner has not yet been determined to be disabled through a federal or state agency; therefore, he is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.

BEM 550 (January 2017), pp. 1-1; BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department budgeted [REDACTED] for the dependent care and child support expenses. Petitioner agrees that he does not have these expenses. The Department also properly budgeted the [REDACTED] Standard Deduction based upon a group size of one. RFT 255 (October 2018), p. 1. After consideration of each of these items, Petitioner's Adjusted Gross Income (AGI) is \$[REDACTED].

After calculating Petitioner's AGI, Petitioner's Excess Shelter Deduction is calculated by adding Petitioner's housing costs and any standard utility deductions. BEM 556, pp. 4-7. Petitioner has a housing cost of [REDACTED] per month. In addition, Petitioner is not responsible for the cost of heating or cooling his home but is responsible for the cost of his electrical services. Clients who receive a LIHEAP at application/redetermination or within the 12 months immediately preceding the application/redetermination are automatically eligible for the H/U. BEM 554, p. 19. Since Petitioner is not responsible for the costs of heating and cooling his home and he lost his eligibility for the LIHEAP, Petitioner is not eligible for the heat and utility standard deduction (H/U). BEM 554, p. 15. Instead, Petitioner is eligible for the Non-Heat Electric Standard Deduction of [REDACTED] per month. BEM 554, p. 21; RFT 255, p. 1. The Department budgeted [REDACTED] for all other utility standard deductions and Petitioner agrees that he is not responsible for any other utilities separate from his rent. Therefore, Petitioner has a total housing cost of [REDACTED] which is then reduced by 50% of Petitioner's AGI [REDACTED] to achieve his Excess Shelter Deduction of [REDACTED] BEM 556, pp. 4-7. Petitioner's Excess Shelter Deduction is then subtracted from his AGI to achieve his Net Income of [REDACTED]. Petitioner's Net Income is then compared against the FAP Benefit Issuance Tables based upon group size and income to determine his FAP benefit rate of [REDACTED] per month. BEM 554, pp. 4-7; RFT 260 (October 2018), p. 5. The Department properly determined Petitioner's FAP benefit rate.

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 reduced Petitioner's FAP benefit rate to [REDACTED] per month effective September 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/tm



Amanda M. T. Marler

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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County