



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: October 10, 2019
MOAHR Docket No.: 19-009893
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 October 9, 2019, from Lansing, Michigan. Petitioner, [REDACTED] appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Haysem Hosny, Eligibility Specialist, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 10-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 receives [REDACTED] per month for rent from his daughter.
3. On August 1, 2019, the Department issued a notice of case action which notified Petitioner that he was approved for a FAP benefit of \$353.00 for July 2019 and \$314.00 per month thereafter. The Department included a budget in its notice which showed that the Department budgeted [REDACTED] for earned income.

4. On August 29, 2019, Petitioner requested a hearing to dispute the Department's notice of case action since it budgeted [REDACTED] for earned income.

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 requested a hearing to dispute the Department's notice of case action because it showed that the Department budgeted [REDACTED] for earned income. Petitioner asserted that he does not have any earned income, so the budget should not have shown any earned income. The Department asserted that Petitioner receives [REDACTED] per month for rent and [REDACTED] of the rent is considered earned income pursuant to policy.

The relevant policy states that the Department counts as earned income the gross amount of rent received minus the greater of actual expenses or 60% of the amount of rent received. BEM 504 (January 1, 2018), p. 1-2. Petitioner was receiving [REDACTED] per month for rent. There was no evidence that Petitioner provided proof of expenses exceeding 60% of the amount of rent received, so the Department was required to subtract 60% of the amount of rent received. Sixty percent of the amount of rent received was [REDACTED]. Thus, the amount of the monthly rent received ([REDACTED]) minus 60% of the amount of rent received ([REDACTED]) equaled [REDACTED]. Therefore, the amount of the rent received that was required to be considered earned income was [REDACTED]. The Department properly budgeted [REDACTED] for the amount the rent Petitioner received.

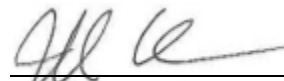
Petitioner did not present sufficient evidence to establish that the Department did not properly determine his FAP benefit. Therefore, the Department's decision is affirmed.

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 food assistance benefit amount in its August 1, 2019, notice of case action.

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

JK/ml



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

Dawn Tromontine
41227 Mound Rd.
Sterling Heights, MI
48314

Macomb-36 County DHHS – Via
Electronic Mail

BSC4 Via Electronic Mail

M. Holden Via Electronic Mail

D. Sweeney Via Electronic Mail

Petitioner

[REDACTED], MI
[REDACTED]