



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: November 12, 2019
MOAHR Docket No.: 19-010671
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: John Markey

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 November 7, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Alexis Bratcher, Eligibility Specialist, and Rolla Ley, Hearings Facilitator. During the hearing, a 13-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-13.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective October 1, 2019, ongoing?

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 was an ongoing recipient of FAP benefits from the Department.
2. Petitioner lives in a household of one and has monthly unearned income of ██████.
3. Petitioner reported to the Department that she was responsible for shelter costs including rent of ██████ per month and heat.
4. On ██████, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for ██████ per month in FAP benefits,

effective [REDACTED], 2019. Notably, the Department did not include Petitioner's housing costs in the budget. Exhibit A, pp. 5-9.

5. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of Petitioner's monthly FAP benefits, effective [REDACTED], 2019.

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 objects to the Department's determination of Petitioner's eligibility for FAP benefits, effective [REDACTED], 2019. In determining Petitioner's FAP benefits, effective [REDACTED] 2019, ongoing, the Department factored into the equation Petitioner's unearned income of [REDACTED] per month, the standard deduction of \$161, and the heat and utility (h/u) standard of \$518. Notably, the Department did not include any housing costs in the equation despite Petitioner reporting to the Department that she had [REDACTED] of monthly housing costs.

The Department factors certain expenses into the FAP budget to determine benefit levels. BEM 554 (August 2017), p. 1. Shelter expenses, including housing expenses such as rent, are considered if they meet certain criteria. BEM 554, p. 13. Amongst those criteria are the requirements that someone in the FAP group has the responsibility to pay for the service in money and that any required verifications are provided. BEM 554, p. 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2017), p. 1. Verifications are required under many different circumstances, including when an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3.

Petitioner's assertion that she was responsible for housing costs created a situation where an eligibility factor was unclear or incomplete. At that point, the Department had

an obligation to follow the verification procedure clearly outlined in BAM 130. The evidence on the record does not include any documentation to substantiate the Department's assertion that it sought to obtain any verifications related to Petitioner's housing expenses. As these decisions are based solely on the record presented at the hearing, it is found that the Department did not properly follow the procedure regarding verifications. By failing to do so and instead simply factoring in a housing cost of ■■■, the evidence on the record shows that the Department deprived Petitioner of the opportunity to verify an expense that could have resulted in Petitioner being found eligible for a higher level of FAP benefits than she was.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits, effective ■■■■ 2019.


DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's eligibility for FAP benefits, effective ■■■■, 2019;
2. Follow law and Department policy regarding resolving discrepancies in eligibility-related factors, most notably those regarding reported housing costs;
3. If the Department believes any reported eligibility-related factor is unclear, inconsistent, incomplete, or contradictory, issue to Petitioner a verification checklist allowing her the opportunity to verify her reported circumstances;
4. If Petitioner is eligible for additional benefits, ensure that a prompt supplement is issued; and
5. Notify Petitioner in writing of its decisions.

JM/tm



John Markey
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

Lacey Whitford
1919 Parkland Drive
Mt. Pleasant, MI
48858

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
AP Specialist Isabella County (3)