



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: November 20, 2019
MOAHR Docket No.: 19-010924
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 13, 2019, from Lansing, Michigan. The Petitioner, [REDACTED] was represented by herself. The Department of Health and Human Services (Department or Respondent) was represented by Lakesha Powel, Assistance Payments Worker.

Respondent's Exhibit A pages 1-26 admitted as evidence.

ISSUE

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

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. On August 26, 2019 Petitioner came to the Department (DHHS) to submit a change in mailing address.
3. After receiving the information, lobby management staff updated Petitioner's address and reduced Petitioner's FAP benefits from \$ [REDACTED] to \$ [REDACTED] because Petitioner had no shelter obligation, effective October 1, 2019.
4. Petitioner received \$ [REDACTED] in FAP benefits for October 2019.

5. On September 27, 2019 Petitioner returned verification information to the Department indicating that Petitioner has a shelter obligation.
6. On October 1, 2019 the Department caseworker updated Petitioner's case and determined that Petitioner should received \$ [REDACTED] per month in FAP benefits effective November 1, 2019.
7. On October 1, 2019 the Department sent Petitioner a Notice of Case Action increasing Petitioner's FAP allotment to \$ [REDACTED] per month.
8. On October 4, 2019 Petitioner filed a Request for Hearing to contest the October allotment reduction.
9. On [REDACTED] [REDACTED] [REDACTED] the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, table 240-1.

Tell the client what verification is required, how to obtain it, and the due date; see Timeliness of Verifications in this item. Use the DHS-3503, Verification Checklist (VCL), to request verification. Exception: For Food Assistance Program (FAP) only, if there is a system-generated due date on the verification form such as a DHS3688, Shelter Verification, a verification checklist is not required to be sent with the verification form. BEM 130, page 3

In this case, Petitioner properly notified the Department that she changed her mailing address. On September 26, 2019 Petitioner indicated that she was homeless. Petitioner provided shelter verification on September 27, 2019.

The specialist told Petitioner that documents received before the 15th of the month are used for the next month (October). But documentation received after the 15th of the month take effect the month after the following month.

This Administrative Law Judge finds that Petitioner did provide the Department with Shelter obligation in September 2019. She established shelter obligation for October 2019. The Department did not establish on the record that it provided Petitioner with a negative action notice for the month of October 2019, before it reduced her FAP benefits. The Department did not establish by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it reduced Petitioner's FAP benefits without proof of notice of reduction.

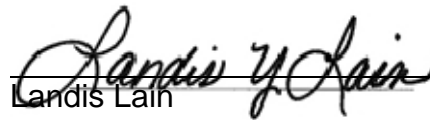
DECISION AND ORDER

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 amount for FAP benefits for the month of October 2019 with the shelter responsibility included; and
2. Pay to Petitioner any additional benefits to which she is entitled for the month of October 2019.

LL/nr



Randis Lain
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

Dora Allen
14061 Lappin
Detroit, MI
48205

Wayne 76 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI