



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: December 4, 2019
MOAHR Docket No.: 19-011703
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an administrative hearing was held on November 27, 2019, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Tamika Jackson, FIM.

ISSUE

Did the Department properly issue FAP benefits on behalf of Petitioner for the 90 days prior to Petitioner's hearing request?

FINDINGS OF FACT

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

1. At all relevant times, Petitioner has been a beneficiary of the FAP program for a group size of one.
2. On October 23, 2019, Petitioner filed a hearing request disputing her \$15.00-\$16.00 per month allotment in FAP benefits from July through October 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.

Applicable policy is found at BAM 130. Corresponding federal regulations are found at 7 CFR 273.

In this case, the record shows that Petitioner's FAP benefits were decreased in April and May 2019, due to Petitioner having increased in income. Petitioner does not dispute this reduction. However, Petitioner alleges that in June 2019, her income was reduced and that she submitted verification of the same to the Department. Petitioner argues that her FAP allotment should have increased beginning in June 2019 and continuing through October 2019, when she filed her hearing request.

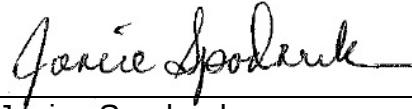
The Department's evidentiary packet addressed Petitioner's FAP allotment from the time of her hearing request, forward. Petitioner submitted new verification dated October 24, 2019, which was acceptable. However, actions taken by the Department after the hearing request are not relevant to the issue at the time of a prior action taken by the Department. In that regard, the Department stated that Petitioner did not submit adequate verification of a work stop or change situation, and that the prior verification submitted prior to the October 23, 2019 hearing request was not sufficient to show a decrease in earned income.

Where the evidence is no better than equivocal, the burden must be weighed against the party with the burden of proof. Here, Petitioner alleges that the verification was sufficient, but did not have proof of having delivered the purported verification. Petitioner was aware that this verification would be at issue at the administrative hearing, and yet, did not bring a copy of the verification. Petitioner also alleged that she submitted six months of pay stubs. Again, Petitioner knew that her income was being disputed and yet did not bring proof of the paystubs and/or proof that she submitted the same. Based on the evidence of record, it cannot be said that Petitioner met her burden to establish eligibility by a preponderance of evidence that the June through October 2019 FAP allotment was incorrect and thus, the Department's FAP allotment for this time period must be upheld.

DECISION AND ORDER

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

JS/ml



Janice Spodarek
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

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne 57 County DHHS – Via Electronic
Mail

BSC 4 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED], MI [REDACTED]