



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 12, 2019
MOAHR Docket No.: 19-012134
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 9, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearings Facilitator, and Ollie Perin, Family Independence Specialist. 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 for the month of November 2019?

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 FAP recipient in a household of four. Petitioner's case was certified through the end of [REDACTED] 2019.
2. Sometime in early October 2019, Petitioner submitted the completed Redetermination to the Department.
3. Petitioner began working for [REDACTED] on [REDACTED], 2019. Her first paycheck was received [REDACTED], 2019, which was also her last day working for the employer.

4. At some point, the Department became aware of Petitioner's employment at [REDACTED] and inquired about the same.
5. On [REDACTED], 2019, Petitioner reported to the Department that she was no longer working for [REDACTED].
6. On [REDACTED] 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for \$[REDACTED] in monthly FAP benefits, effective [REDACTED], 2019. The document included a budget showing that the Department was budgeting Petitioner's income from [REDACTED] at a rate of \$[REDACTED] per month. Exhibit A, pp. 5-8.
7. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing wherein she once again reported that she was no longer working or earning 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) [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 inclusion in her redetermined FAP budget of the income she received for a short period of time while working at [REDACTED]. The Department first learned of the new job in mid-October 2019. Petitioner received her first paycheck on [REDACTED], 2019. On [REDACTED], 2019, Petitioner reported to the Department that she was no longer working for [REDACTED]. That same day, the Department certified Petitioner's new FAP benefit period, effective [REDACTED] 2019. Despite Petitioner only working for the employer for two weeks or less and reporting the loss of that employment prior to the benefit period being certified, the Department budgeted [REDACTED] per month from that source into Petitioner's FAP budget. The Department's processing of Petitioner's redetermination caused Petitioner's monthly FAP allotment to be certified at only \$[REDACTED] a significant decrease from the [REDACTED] she was receiving before.

Periodically, the Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (October 2019), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period. BAM 210, p. 3. The redetermination process begins when the client files a DHS-1010, Redetermination. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are complete. BEM 210, p. 12. The redetermination process is complete once the Department certifies a new benefit period. BEM 210, p. 19. The Department must seek to verify income at redetermination. BEM 505 (October 2017), p. 14. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BEM 210, p. 18.

The Department properly initiated the redetermination process for Petitioner's benefit period that was due to expire at the end of October 2019, and Petitioner timely complied with all of her requirements. During the process, the Department learned of Petitioner's job and sought to verify her income. Based on the information it received, the Department concluded that Petitioner was earning approximately \$[REDACTED] per month from her job.

Prior to the end of Petitioner's benefit period, Petitioner reported to the Department that she was no longer working and had no earned income. At that point, the Department had not completed the redetermination process and had not certified Petitioner's new benefit period. Despite receiving the report, the Department did not seek to verify Petitioner's loss of income to ensure that her earnings, or lack thereof, were properly budgeted. Instead, the Department subsequently certified Petitioner's new benefit period, approving Petitioner for \$[REDACTED] per month in FAP benefits on the basis of Petitioner having \$[REDACTED] in monthly earned income.

The Department was required, at certification, to use the information available to determine Petitioner's income. If there was any question as to the veracity of that information, the Department was required to seek clarification by requesting verifications. At the time the Department certified Petitioner's FAP benefit period, the Department knew that she was not earning anything yet still budgeted \$[REDACTED] per month in earned income, which was substantially more than Petitioner earned during her entire course of employment with [REDACTED].

As the Department failed to properly budget Petitioner's income situation for the month of November 2019, the Department must be reversed. According to Petitioner, the income was removed from the budget, effective [REDACTED] 2019, ongoing. Thus, the only issue is Petitioner's benefits for the month of November 2019. The Department must recalculate Petitioner's FAP allotment for November 2019 based on her actual income received during that month. If Petitioner is eligible for additional benefits, the Department must issue a supplement.

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 not act in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits for the month of November 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 FAP eligibility for the month of November 2019 using Petitioner's actual income received during that month;
2. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;
3. If Petitioner is eligible for additional benefits, promptly issue a supplement; and
4. 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

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI
48212

Petitioner

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

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