



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: January 3, 2020
MOAHR Docket No.: 19-012958
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, a hearing was held on January 2, 2020, from Lansing, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by Brad Reno, ES and HF.

ISSUE

Did the Department and Petitioner come to an agreed upon settlement at the administrative hearing?

FINDINGS OF FACT

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

1. On November 13, 2019, the Department issued a Notice of Case Action reducing Petitioner's FAP benefits effective December 1, 2019, on the grounds that the FAP budget incorrectly credited Petitioner for Part B payments when the Department was paying Petitioner's Part B.
2. On [REDACTED] 2019, Petitioner filed a hearing request.
3. At the administrative hearing, the Department indicated that it failed to budget a heat and utility standard based on a September 13, 2019 shelter verification, and agreed to redo the budget.

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 policies are found primarily at BAM 600. Corresponding federal regulations are found at 7 CFR 273.15.

The state statute applicable to the FAP and welfare benefits allows for disposition to be made of a contested case hearing based upon an agreed upon settlement between the parties.

Here, as of the administrative hearing, Petitioner's representative stipulated that there was no longer a dispute regarding the budgeting of the Part B payments. However, at the administrative hearing, the Department indicated that based on a September 13, 2019 shelter verification the Department should have budgeted a heat and utility standard. As such, the Department agreed to redo the FAP budget, reflecting the standard heat and utility standard as permitted by policy and procedure, back to the date of the receipt of the September 13, 2019 verification form. The Department further agreed to issue any supplement benefits to Petitioner to which he may be entitled.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the removal of the Part B expense in Petitioner's FAP budget effective December 1, 2019.

The Department is REVERSED IN PART with respect to the budgeting of Petitioner's utility standard effective September 13, 2019.

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

1. Recalculate Petitioner's FAP eligibility by budgeting a utility standard beginning September 13, 2019, as permitted by policy and procedure, and

2. Issue supplemental benefits to Petitioner to which he may be entitled, and
3. Issue a written notice to Petitioner informing him of his new allotment effective September 13, 2019 and continuing, and
4. Allow Petitioner another right to an administrative hearing for 90 days from the date of the new notice, should Petitioner dispute the outcome of the new calculation.



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

Tamara Morris
125 E. Union St., 7th Floor
Flint, MI 48502

Genesee (Union St. District) DHHS – Via
Electronic Mail

BSC2 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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