



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: February 6, 2020
MOAHR Docket No.: 19-013734
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 February 5, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearings Facilitator, and Deslyn Griffin, Assistance Payments Worker. During the hearing, a 16-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-16.

ISSUE

Upon processing Petitioner's [REDACTED], 2019 application, did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

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 [REDACTED], 2019, the Department received Petitioner's application for FAP benefits. Petitioner asserted on the application that she was homeless but had housing expenses of [REDACTED] per month.
2. Petitioner submitted to the Department paycheck stubs from her employment showing that she received gross income of \$[REDACTED] on [REDACTED], 2019 and \$[REDACTED] on [REDACTED], 2019. Exhibit A, pp. 14-15.

3. On [REDACTED], 2019, Petitioner had a phone interview with Ms. Griffin to discuss the application filed that day. During the phone interview, Petitioner indicated to Ms. Griffin that she regularly moved from place to place and would pay about \$[REDACTED] or \$[REDACTED] per month to whoever she was staying with. She further indicated that at the time she was staying at the address on [REDACTED].
4. Ms. Griffin determined that the housing expense was not eligible to be included in the FAP budget as it was not continuous.
5. On [REDACTED], 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner of the Department's determination of Petitioner's FAP eligibility. Petitioner was approved for \$[REDACTED] in FAP benefits for the period from [REDACTED], 2019 through [REDACTED], 2019 and \$[REDACTED] per month, effective [REDACTED], 2020, ongoing. Exhibit A, pp. 7-9.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of Petitioner's eligibility for FAP benefits.

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 objected to the Department's determination that she was eligible for \$[REDACTED] in FAP benefits from [REDACTED], 2019 through [REDACTED] 2019 and \$[REDACTED] per month, effective [REDACTED], 2020, ongoing. The Department determined Petitioner's FAP benefits based on Petitioner's verified income and expenses. The Department budgeted \$[REDACTED] of earned income, a \$161 standard deduction, and the \$30 telephone standard.

To determine monthly earned income when an individual is paid more often than on a monthly basis, the Department is required to determine a weekly amount then multiply that amount by 4.3 to get the monthly total. BEM 505 (October 2017), p. 7. Thus,

Petitioner's four weeks of earnings totaling \$ [REDACTED]¹ must be divided by four to get a weekly earnings figure of \$ [REDACTED]. Multiplying that figure by 4.3 results in a monthly income of \$ [REDACTED]. The Department budgeted \$ [REDACTED] per month as Petitioner's earned income, which based on the evidence presented, was correct.

FAP BENEFITS, [REDACTED] 2020, ONGOING

Petitioner's monthly earned income was \$ [REDACTED]. Earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1; BEM 556 (July 2019), p. 3. Subtracting the 20% earned income deduction from Petitioner's earned income results in a post-deduction total of \$ [REDACTED]. That figure is further reduced by taking out the standard deduction applicable to Petitioner's group size, which is \$161, resulting in an adjusted gross income of \$ [REDACTED]. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

Petitioner was not eligible for the excess shelter deduction. Much of the hearing focused on whether or not the Department properly determined that the housing costs of \$ [REDACTED] reported on the application should have been included in the budget. After reviewing the record, it is clear that the inclusion or exclusion of the \$ [REDACTED] housing cost is immaterial. Assuming that the expense should have been included would result in Petitioner having shelter costs of \$ [REDACTED] for housing and the \$30 telephone standard. Adding Petitioner's shelter expenses together results in total shelter expenses of \$ [REDACTED]. The excess shelter deduction is calculated by subtracting from the total shelter expense figure (\$ [REDACTED]) one half of the adjusted gross income, which is \$ [REDACTED]. The remaining amount, if greater than zero, is the excess shelter deduction. The remaining amount is less than zero, even with the inclusion of the \$ [REDACTED]. Thus, whether the housing expense was properly excluded or not is completely immaterial as Petitioner did not qualify for the excess shelter deduction either way.

As Petitioner does not qualify for the excess shelter deduction, Petitioner's net income is the same as the adjusted gross income of \$ [REDACTED]. The Food Assistance Issuance Table shows \$ [REDACTED] in monthly FAP benefits for a household of one with a net income of \$ [REDACTED]. RFT 260 ([REDACTED] 2019), p. 17. That is what the Department determined and is correct. Thus, the Department is affirmed.

FAP BENEFITS DECEMBER 10, 2019 THROUGH DECEMBER 31, 2019

When an application for FAP benefits is filed during a month, the applicant may receive prorated FAP benefits for that month, so long as the amount is at least \$ [REDACTED]. BEM 556, p. 6. The same income and expense information detailed above applied to the period from [REDACTED] 2019 through [REDACTED] 2019.

¹ That number represents the sum of the two paychecks issued on [REDACTED], 2019 and November [REDACTED] 2019.

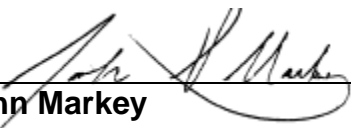
As there were 21 days Petitioner was eligible during the month of December, which has 31 days, Petitioner's prorated benefits are calculated by dividing \$█ by 31 then multiplying that figure by 21. The result is an allotment of █. The evidence presented at the hearing established that Petitioner was given the correct allotment of \$█ in FAP benefits for that period.

DECISION AND ORDER

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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits from █, 2019 through █, 2019 and █, 2020, ongoing.

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

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