



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: July 12, 2019
MOAHR Docket No.: 19-006236
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 July 10, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Tracy Bailey, Eligibility Specialist. During the hearing, a 27-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-27.

ISSUE

Did the Department properly process Petitioner's reported loss of employment income when calculating her Food Assistance Program (FAP) benefits for January and February 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 recipient of FAP benefits.
2. Petitioner's FAP benefits were calculated using Petitioner's earned income from employment. Petitioner received her final paycheck on December 21, 2018.
3. Sometime in early January 2019, Petitioner reported to the Department that she no longer had employment income as the employer moved out of state. The Department directed Petitioner to get a written statement from the employer stating

the same. However, the Department did not issue a verification checklist or other document requesting information until February 19, 2019. Exhibit A, pp. 14-17.

4. The Department removed the income from Petitioner's FAP budget starting in March 2019. Exhibit A, pp. 4-7.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's failure to process the loss of income and include it into her January or February 2019 FAP budgets.

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 argued that she should receive a supplement for her FAP benefits from for January and February of 2019. Petitioner's FAP benefits were calculated for those months with the inclusion of income from Petitioner's employment, despite Petitioner not working there or receiving income after December 21, 2018. However, Petitioner did not report that loss of income to the Department until early January 2019. The income was removed from Petitioner's FAP budget effective March of 2019.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (October 2017), p. 11. If verification is required or deemed necessary, the Department must allow the household 10 days from the date the change is reported or the date of the request for verification to provide verification. BEM 505, p. 11. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported. BEM 505, p. 10.

Petitioner testified that she first reported the loss of income in early January 2019, and she contended that the Department improperly continued to include that income in her budget for January and February 2019. While Petitioner did not report the loss of income in enough time to impact her January 2019 allotment, she did report it in time to impact her February 2019 allotment. However, the Department failed to properly

process the reported loss of income, causing Petitioner to be under-issued benefits for the month of February 2019. Therefore, it is found the Department failed to process Petitioner's reported loss of income. Had the Department properly processed the reported change, Petitioner's next allotment of benefits would have been affected. Petitioner's next allotment of benefits would have been for February of 2019.

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 FAP benefits for the month of February 2019.

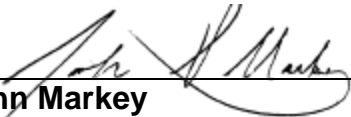
DECISION AND ORDER

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 benefits for the month of February 2019 without the inclusion of the income that Petitioner reported losing in early January 2019 and subsequently verified;
2. If Petitioner is eligible for additional FAP benefits, promptly issue to Petitioner a supplement; and
3. Notify Petitioner in writing of its decisions.

JM/cg



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

Via Email:

MDHHS-Chippewa-Hearings
M. Holden
D. Sweeney
BSC1- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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