



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: September 10, 2019
MOAHR Docket No.: 19-008501
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 5, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor, and [REDACTED] Assistance Payments Worker.

ISSUE

Did the Department properly calculate Petitioner's 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. In July 2019, Petitioner's Low Income Home Energy Assistance Payment (LIHEAP) was removed from Petitioner's FAP case due to ineligibility.
2. On July 20, 2019, the Department issued a Notice of Case Action to Petitioner notifying him that because his shelter deduction had changed, his FAP benefit rate was decreasing to [REDACTED] per month effective September 1, 2019.
3. On August 2, 2019, the Department received Petitioner's request for hearing disputing the reduction in 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's FAP benefits were reduced from [REDACTED] per month to [REDACTED] per month after the Department removed Petitioner's LIHEAP payment prompting the loss of his Heat and Utility Standard Deduction (H/U).

According to the United States Department of Health and Human Services Office of Community Services, individuals are eligible for the LIHEAP program if their income is at or below 150% of the federal poverty level (FPL) for the year. *LIHEAP Service Eligibility Guidelines* <<https://www.acf.hhs.gov/ocs/resource/liheap-eligibility-criteria>> (accessed September 6, 2019). The FPL for a group size of one is \$12,490. *Poverty Guidelines* <<https://aspe.hhs.gov/poverty-guidelines>> (accessed September 6, 2019). Therefore, the LIHEAP income limit is \$18,735.00. In addition to this requirement, the Department provided a Department Publication titled FAP Accuracy Now (FAN)-LIHEAP 2019 Supplement as part of its exhibit packet. The publication states that "FAP cases with a shelter expense greater than zero, are not homeless (based on the Head of Household Living Arrangement) and the six questions below on the Standard Allowance-Details page starting with the 'Is the household responsible for heating costs...' must be answered 'No.'" The publication then provides a screen shot of the Bridges Standard Allowance screen and identifies the six questions which must be answered "No" to be eligible for the LIHEAP. Individuals eligible for the LIHEAP payment are automatically eligible for the full H/U which potentially reduces the FAP group's net income and makes the group eligible for a greater FAP benefit. BEM 554 (April 2019), p. 19; BEM 556 (July 2019), pp. 4-6.

In reviewing Petitioner's case, Petitioner's gross monthly income is [REDACTED] which includes his [REDACTED] Supplemental Security Income (SSI) payment as well as a [REDACTED] quarterly State Supplement Security Income Payment (SSP). Therefore, Petitioner's annual income is [REDACTED] and his income falls well below the federal income threshold for LIHEAP. Next, the Department provided the Bridges Standard Allowance screenshot applicable to Petitioner. In each of the six questions identified by the Department in its publication, each answer is listed as "No." In addition, Petitioner is not

homeless and has a shelter expense greater than zero. Based upon the Department's publication, Petitioner should be eligible for the LIHEAP program.

During the hearing, the Department could not adequately explain why Petitioner lost his eligibility for the LIHEAP payment and repeatedly stated that this was an automatic action by Bridges, or an action completed by the Lansing Office. Without some greater explanation or evidence, the Department has not adequately explained how or why Petitioner lost his LIHEAP eligibility. If Petitioner had not lost the LIHEAP eligibility, he would not have lost his H/U, and his FAP benefit rate would not have changed. Therefore, the Department has not met its burden of proof in establishing that it properly adjusted Petitioner's FAP benefit rate.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Petitioner's FAP benefit rate.

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 eligibility for the LIHEAP;
2. Once Petitioner's eligibility for the LIHEAP is redetermined, redetermine Petitioner's FAP benefit rate effective September 1, 2019;
3. If Petitioner is otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
4. Notify Petitioner in writing of its decision.

AM/tm



Amanda M. T. Marler

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

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

Petitioner

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

Authorized Hearing Rep.

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

CC:

[REDACTED]
[REDACTED]