



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 1, 2019
MOAHR Docket No.: 19-010679
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 31, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Krystle Martin, Assistance Payments Worker, and Eileen Kott, Supervisor, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 75-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit?

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 is a FAP recipient.
2. The Department placed Petitioner in non-cooperation status for failing to provide sufficient information to identify the father of her child to pursue him for child support.
3. After Petitioner was placed in non-cooperation status, Petitioner provided the information the Department requested from her to help identify the father of her child to pursue him for child support.

4. On August 21, 2019, the Department issued a notice of case action which notified Petitioner that she was approved for a FAP benefit of \$15.00 per month effective September 1, 2019, based on a group size of two.
5. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request to dispute her FAP benefit amount.
6. The Department reviewed Petitioner's FAP benefit and determined that Petitioner was eligible for a FAP benefit of \$178.00 per month effective September 1, 2019, based on a group size of one, earned income of \$ [REDACTED] per month, rent of \$655.00 per month, and a utility standard for telephone. The Department excluded Petitioner from the group size because the Department determined that Petitioner was disqualified for non-cooperation with the office of child support. The Department issued Petitioner a supplement of \$163.00 to make Petitioner's total issuance \$178.00.
7. On October 3, 2019, the Department issued a notice of case action which notified Petitioner that she was approved for a FAP benefit of \$194.00 per month effective October 1, 2019, based on a group size of one. The Department excluded Petitioner from the group size because the Department determined that Petitioner was disqualified for non-cooperation with the office of child support.

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) 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 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 asserted that she was disputing her FAP benefit amount for August 2019 and September 2019. A client has 90 days from the date of written notice of case action to file a hearing request to dispute it. BAM 600 (July 1, 2019), p. 6. Petitioner's hearing request was not filed within 90 days of any written notice of case action affecting her FAP benefit for August 2019, so her hearing request was not filed timely. However, Petitioner's hearing request was filed within 90 days of the date of a written notice of case action affecting her FAP benefits effective September 1, 2019.

Petitioner presented sufficient evidence to establish that the Department did not properly determine her September 2019 FAP benefit amount. The Department excluded Petitioner as a group member because the Department determined that she was disqualified for non-cooperation with the office of child support. Petitioner testified

that she cooperated with the Department before September 2019, and the Department did not rebut Petitioner's testimony. Thus, I must find that Petitioner did cooperate with the office of child support and should not have been excluded as a group member. Therefore, the Department did not act in accordance with its policies when it excluded Petitioner as a group member.

Petitioner did not present sufficient evidence to establish that the Department improperly budgeted her income and expenses when it determined her FAP benefit amount. The Department testified that it determined Petitioner's FAP benefit amount based on a budgeted earned income of \$ [REDACTED] per month, rent of \$655.00, and a telephone utility standard. Although Petitioner disagreed with the amount of her earned income, Petitioner agreed that she received the gross amount of \$ [REDACTED] per month in September 2019. The gross amount of income is what is required to be budgeted, so the Department properly budgeted Petitioner's income. BEM 501 (October 1, 2019), p. 6. Petitioner agreed with the amount budgeted for her rent, and Petitioner did not present any evidence to establish that she should have been granted a utility standard other than the telephone standard.

For these reasons, the Department's decision is reversed. The Department must redetermine Petitioner's FAP benefit amount effective September 1, 2019, based on a group size of two.

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 did not act in accordance with its policies and the applicable law when determined Petitioner's FAP benefit amount effective September 1, 2019.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.

JK/ml



Jeffrey Kemm
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

Dora Allen
14061 Lappin
Detroit, MI
48205

Wayne 76 County DHHS – Via Electronic
Mail

BSC4 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Department Representative

Office of Child Support (OCS)-MDHHS –
Via Electronic Mail
201 N Washington Square
Lansing, MI
48933

Petitioner

 – Via First Class Mail
MI