



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: January 2, 2020
MOAHR Docket No.: 19-012786
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 telephone hearing was held on January 2, 2020, from Lansing, Michigan. The Petitioner appeared unrepresented. [REDACTED] appeared as a witness. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, HF.

ISSUE

Did the Department properly issue notice of FAP closure?

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, Petitioner applied for SER assistance reporting a second person in the household who had earned income not previously budgeted.
2. A new FAP budget, calculating new earned income, shows that the family was excess income eligible for the FAP program.
3. On November 15, 2019, the Department issued a Notice of Case Action indicating that effective December 1, 2019, Petitioner's FAP would close due to excess income.
4. On November 26, 2019, Petitioner verbally requested an administrative hearing.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Applicable policies to the case herein are found primarily at BA 105, 110, 130, 220, 300; BEM 500, 501, 505, 550, 554, and 556. Applicable federal regulations are found at 7 CFR 273.9, 273.10 and 273.11.

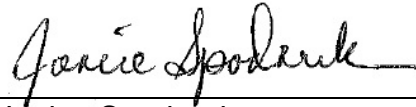
In this case, the budgeted income and expenses found on the FAP budget are unrefuted. See Exhibit A.28. Petitioner argued at the administrative hearing that subsequent to the action herein, his spouse's income was reduced.

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 issued a Notice of Case Action to close Petitioner's FAP case due to excess income.

Petitioner understands that he may verify any changes in income that took place subsequent to the action herein. However, changes which took place after the Notice of Case Action at issue herein, are not within the jurisdiction of the undersigned. As the facts stand, the case must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Kathleen Verdoni
411 East Genesee
P.O. Box 5070
Saginaw, MI 48607

Saginaw County 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] MI [REDACTED]