



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: January 21, 2020
MOAHR Docket No.: 19-013133
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 January 13, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator. During the hearing, a 37-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-37.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective December 1, 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 from the Department. Petitioner lives in a household with her two adult children, both of whom attended school at all times relevant to the instant matter. Her son, [REDACTED], worked for fewer than 20 hours per week. Her daughter, [REDACTED], worked more than 20 hours per week.
2. Petitioner earned approximately \$1,015.04 per month from her employment with [REDACTED]. [REDACTED] earned approximately \$914.72 per month from her employment with [REDACTED]. Exhibit A, pp. 17-18; 31-37.

3. On November 19, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for \$16 per month in FAP benefits, effective December 1, 2019.
4. On [REDACTED], 2019, Petitioner submitted to the Department a Request for Hearing objecting to the Department's determination of her monthly FAP benefits, effective December 1, 2019.

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 reduction of her monthly FAP benefits from \$117 to \$16, effective December 1, 2019. Petitioner lives in a household that includes herself and her two children, both of whom were at the time of the Department's decision over the age of 18 and full-time students. In determining Petitioner's monthly FAP allotment, the Department excluded Petitioner's son, [REDACTED], from the group because he was an ineligible student. Petitioner's daughter, [REDACTED], was included in the group because she worked over 20 hours per week. During the hearing, Petitioner confirmed the accuracy of the income and expense information used by the Department.

An individual who is enrolled at least half-time in an institution of higher education is considered in student status and shall be ineligible for FAP benefits unless that person meets certain exemptions. 7 CFR 273.5(a) and (b); BEM 245 (January 1, 2018), pp. 3-4. Department policy states that a "person remains in student status while attending classes regularly.... Student status does not continue if the student... does not intend to register for the next school term." BEM 245, p. 5. One of the ways that an individual in student status may become eligible for FAP benefits is for that individual to work at least an average of 20 hours per week. BEM 245, p. 5.

Based on the information on the record, [REDACTED] was not working at least 20 hours per week, was 23-years old, and was enrolled in college. Thus, [REDACTED] was in student status and was not an eligible student as he was not working sufficient hours to qualify. Accordingly, the Department properly did not include [REDACTED] in the FAP group.

Petitioner's FAP benefits for December 2019, ongoing, were calculated on the basis of Petitioner's household having monthly earned income of \$1,929 and monthly housing expenses of \$239.90. Furthermore, the calculation included a standard deduction of \$161 and the application of the heat/utility standard of \$518.

Petitioner acknowledged the earned income amount. 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 the FAP group's earned income results in a post-deduction total of \$1,543. 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 \$1,382. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

Petitioner was, however, correctly determined to be eligible for the excess shelter deduction. Petitioner had verified housing costs of \$239.90. Petitioner also qualified for the h/u standard of \$518. Adding Petitioner's housing expenses together results in total shelter expenses of \$758. The excess shelter deduction is calculated by subtracting from the total shelter expense figure (\$758) one half of the adjusted gross income, which is \$691. The remaining amount, if greater than zero, is the excess shelter deduction. The remaining amount is \$67.

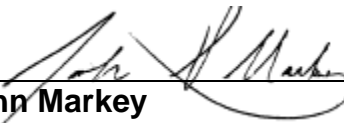
Petitioner's net income is then calculated by subtracting the excess shelter deduction of \$67 from the adjusted gross income of \$1,382. Thus, Petitioner's FAP group's net income is \$1,315. That is exactly what the Department properly found. Exhibit A, pp. 19-21; 29-30. The Food Assistant Issuance Table shows \$16 in benefits for \$1,315 net income for a FAP group of two. RFT 260 (October 2019), p. 19. This is the amount determined by the Department and is correct.

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, effective December 1, 2019, ongoing.

DECISION AND ORDER

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

JM/tlf



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-Wayne-19-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

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