



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 28, 2020
MOAHR Docket No.: 20-000843
Agency No.: ██████████
Petitioner: ██████████

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 February 26, 2020 from ████████ Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) did not appear for the hearing despite a reminder of the telephone hearing.

ISSUE

Did the Department properly close Petitioner's State Supplemental Security Income Payment (SSP) benefit?

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

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 submitted a request for hearing disputing the Department's calculation of her FAP benefit rate as well as the closure of her SSP benefits.
2. Petitioner is a Supplemental Security Income (SSI) recipient in the amount of \$783.00 per month.
3. Petitioner is responsible for the costs of her heat and electric expenses.
4. Petitioner last verified her heat and electric expenses when she applied for State Emergency Relief (SER) Assistance in December 2019.

5. Petitioner has a housing cost of \$489.00 per month.
6. Petitioner lives alone.

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).

Food Assistance Program (FAP)

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.

Petitioner disputes the Department's calculation of her FAP benefit rate because the Department failed to provide her any utility expense deduction which she believes may result in a higher overall FAP benefit rate. The heat and utility standard deduction (H/U) provides a deduction to any client who is responsible for the costs of heat and utility costs in their home including cooling expense. BEM 554 (January 2020), p. 15. Groups that receive the H/U do not receive any other individual utility standards. *Id.* Petitioner last provided verification of her responsibility to pay for heat and electric when she applied for SER benefits in December 2019; therefore, it is unclear why Petitioner did not receive any utility standard deductions as part of her FAP budget. If Petitioner was not eligible for H/U, she may be eligible for other utility standard deductions including the non-heat electric standard, the water and/or sewer standard, telephone standard, cooking fuel standard, or trash standard. BEM 554, pp. 21-24. Since the Department did not appear for the hearing to explain why Petitioner did not receive the H/U or any other utility deduction, the Department has not met its burden of proof in establishing that it properly calculated Petitioner's FAP benefit rate.

State Supplemental Security Income Payment (SSP)

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Department closed Petitioner's SSP benefit; however, Petitioner asserts that she is still an active and ongoing Supplemental Security Income (SSI) recipient and knows nothing about the coding of the State Online Query (SOLQ), an interface with the Social Security Administration accessible by the Department to aid it in determining a client's Social Security Benefit and Medicare participation. SSI is a

cash benefit to needy persons who are aged (at least 65), blind, or disabled. BEM 660 (January 2017), p. 1. It is a federal program administered by SSA. *Id.* States are allowed the option to supplement the federal benefit with state funds. *Id.* In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with state funds. *Id.* The amount of the state benefit varies by living arrangement. *Id.* Payments by the state are made only for those months the recipient received a regular first of the month federal benefit. *Id.* The Department provided no evidence that Petitioner was no longer receiving an SSI payment, and Petitioner testified to the contrary. Therefore, the Department has failed to meet its burden of proof in establishing that Petitioner's SSP benefit was properly closed.

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 calculated Petitioner's FAP benefit rate or closed her SSP benefits.

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 SSP and FAP benefits;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received in both programs; and,
3. Notify Petitioner in writing of its decision.

AMTM/jaf



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

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