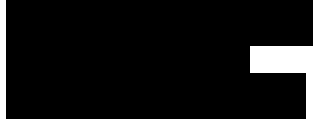




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: April 1, 2020
MOAHR Docket No.: 20-001739
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3-way telephone hearing was held on March 26, 2020, from Trenton, Michigan.¹ Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tami Pelham, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's ongoing Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of April 2018, Petitioner was an ongoing recipient of FAP benefits under the Michigan Combined Application Project (MiCAP) program.
2. On April 18, 2018, Petitioner reported to MDHHS having shelter costs of \$210 per month. Additionally, Petitioner reported no responsibility for heating and/or cooling costs.
3. On November 21, 2018, MDHHS determined that Petitioner was eligible to receive \$100 per month in FAP benefits beginning January 2020.

¹ The hearing was held in the midst of a period when working from home was mandated.

4. As of January 2020, Petitioner was an ongoing recipient of State SSI Payments (SSP).
5. In January 2020, Petitioner did not receive her federally-issued Supplemental Security Income (SSI) on the first of the month.
6. In February 2020, Petitioner did not receive her federally-issued Supplemental Security Income (SSI) on the first of the month.
7. As of February 2020, Petitioner received \$100 in monthly FAP benefits through MiCAP.
8. On February 18, 2020, MDHHS suspended Petitioner's SSP benefits for January 2020 and February 2020.
9. On [REDACTED] 2020, Petitioner requested a hearing to dispute the suspension of SSP benefits and FAP eligibility.
10. On March 27, 2020 during an administrative hearing, Petitioner withdrew her dispute concerning SSP.

CONCLUSIONS OF LAW

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

Petitioner requested a hearing to dispute a suspension of SSP benefits. Exhibit A, pp. 3-4. A Notice of State SSI Payment Change dated February 18, 2020, stated that Petitioner did not receive "a regular first of the month payment for (1,2) months", and her SSP to be issued on March 13, 2020 would be reduced. Exhibit A, p. 3. The notice was interpreted as a suspension of SSP for the first and second months of 2020.

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 the 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.* SSP is issued for only those months the recipient received a regular first of the month federal benefit. *Id.*

During the hearing Petitioner acknowledged that she signed a withdrawal of her dispute concerning SSP benefits. Petitioner testified that her withdrawal came after an understanding that her late SSI payments properly resulted in ineligibility of SSP benefits. Based on Petitioner's partial hearing request withdrawal, Petitioner's dispute concerning SSP will be dismissed.

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute FAP eligibility. Exhibit A, pp. 3-4. Petitioner's written hearing request did not state which benefit month she was disputing, however, Petitioner clarified that she intended to dispute her current FAP eligibility. Based on Petitioner's hearing request submission in [REDACTED] 2020, A dispute of FAP beginning that month will be inferred.

MDHHS' Hearing Summary (Exhibit A, p. 1) implied that Petitioner could not request a hearing disputing FAP benefits because more than 90 days had passed since issuance of written notice. Generally, a client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (January 2020) p. 6. One applicable exception is a dispute of current FAP eligibility. *Id.* Thus, Petitioner is entitled to a hearing to dispute her current FAP eligibility.

A Notice of Case Action dated November 21, 2018, stated that Petitioner was eligible to receive \$100 in monthly FAP benefits under the MiCAP program. Exhibit A, pp. 18-21. It was not disputed that Petitioner continued to receive \$100 in monthly FAP benefits through February 2020.

MiCAP is a Food Assistance demonstration project approved by the Food and Nutrition Service. BEM 618 (January 2019), p. 1. MiCAP is a series of waivers that allows MDHHS to issue FAP benefits to SSI individuals who qualify for this program. BEM 618 (January 2019), p. 1.

The amount of FAP benefits that MiCAP individuals receive is determined by their total shelter expenses, (shelter costs plus heat and utility credits). *Id.* p. 3. If an individual's total shelter expenses are below \$1,000, the FAP benefit is \$100 per month. *Id.* If the total shelter expenses are equal to or exceed \$1,000, the benefit amount is \$190 per month. *Id.*

On April 13, 2018, Petitioner submitted documentation stating that she paid \$210 per month for housing and that she does not pay for heat. Exhibit A, pp. 7-8. MDHHS testified that Petitioner was credited with a responsibility for heat costs. Though Petitioner testified that she did not pay for heating costs, for purposes of this decision, it will be found that Petitioner is responsible for heating and/or cooling costs. The heating/cooling credit is \$518. RFT 255 (January 2020) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum utility credit available.² Adding

² MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence that Petitioner had such expenses.


Petitioner's housing costs (\$210) and utility credit (\$518) results in a total shelter obligation of \$728. As Petitioner's total shelter obligation is less than \$1,000, Petitioner is entitled to FAP benefits of \$100 per month. As MDHHS determined the same FAP benefit amount, its actions are affirmed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning SSP. Concerning SSP, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility beginning February 2020 to be \$100 per month. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
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-MI-CAP SSPC-Hearings
M. Holden
D. Sweeney
L. Karadsheh
BSC4- Hearing Decisions
MOAHR

Petitioner: Via First-Class Mail:

