



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 30, 2020
MOAHR Docket No.: 20-006286
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 October 28, 2020. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by April Nemeck, Hearing Facilitator (HF).

ISSUE

Did the Department properly propose to reduce Petitioner's FAP benefits effective November 1, 2020, due to Petitioner beginning SSI income?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant time, Petitioner has been a beneficiary of the Food Assistance Program (FAP).
2. In August 2020, Petitioner's case was processed as a redetermination. New information was that Petitioner's self-employment income of [REDACTED] per month ended and Petitioner began receiving SSI income of [REDACTED] per month.
3. On October 5, 2020, the Department issued notice to Petitioner that his FAP benefits will be \$105.00 per month effective November 1, 2020. Exhibit A.60
4. Petitioner had previously requested an administrative hearing on September 29, 2020.

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.

Specific FAP policy applicable to the case herein is found primarily at: BAM 105, 110, 115, 210, 220 and 600; BEM 500, 503, 554, and 556. Specific federal regulations regarding FAP budgeting is found primarily at 7 CFR 416.273.2, .10, .9.

Individuals asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence standard.

In this case, the Department argues that Petitioner's FAP allotment is correct under federal law and state policy. Petitioner argues that he is delinquent in his property taxes owing over [REDACTED] and that he should be allowed his delinquent debt as a deduction in his FAP budget.


Here, Petitioner offered no law or policy that allows the deduction or an expense of delinquent debts on the FAP budget. Petitioner receives all that he is entitled to receive under FAP regulations and state policy. Petitioner's allotment is the same as anyone who is similarly situated. Petitioner has not met his burden of proof to show that he is entitled to a deduction for delinquent debts not otherwise recognized as a FAP expense or deduction, such as certain medical expenses.

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 reduced Petitioner's FAP benefits due to Petitioner's increase in income.

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

Tamara Morris
Genesee (Union Street) 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]
MI [REDACTED]