



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: August 30, 2019
MOAHR Docket No.: 19-007938
Agency No.: [REDACTED]
Petitioner: [REDACTED]ri

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 August 22, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was fellow household member [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 20-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-20.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits, effective August 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. Her household consisted of herself, [REDACTED] (her husband), and their five children.
2. Petitioner's daughter, [REDACTED], was born [REDACTED], 2001. Thus, during June 2019, [REDACTED] turned 18. At the time, [REDACTED] was working for [REDACTED].

3. Because [REDACTED] was turning 18, the Department requested and received from Petitioner [REDACTED] income information to add it to Petitioner's FAP budget. Exhibit A, pp. 10-13.
4. On July 19, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that the household's FAP allotment was being reduced to \$250 per month. Exhibit A, pp. 19-20.
5. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 was an ongoing recipient of FAP benefits from the Department. Her household consisted of herself, [REDACTED] (her husband), and their five children. One of their children, [REDACTED] turned 18 in [REDACTED] 2019. At the time, [REDACTED] was working at [REDACTED]. On July 19, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that the household's monthly FAP benefit was being reduced to \$250. The reduction was the result of including [REDACTED] previously excluded income into the FAP budget.

The FAP budget used by the Department in determining Petitioner's monthly FAP benefits, effective August 1, 2019, included earned income of \$800 attributable to Aqil. The budget additionally included \$669 in unearned income attributable to Petitioner. Petitioner acknowledged both the \$669 in unearned income as correct and the \$800 for Aqil as correct.

The budget also included \$1,413 in earned income attributable to [REDACTED]. Petitioner disputed the amount attributable to [REDACTED] and suggested that it was an overestimate as her income fluctuated greatly. First, any income from [REDACTED] was required to be included in the budget as of the month after [REDACTED] turned 18. BEM 501 (July 2019), p. 2. The paystubs submitted show that [REDACTED] earned \$1,315.08 over a four-week span. That comes to a weekly figure of \$328.77. To turn that into a monthly figure, the weekly amount must be multiplied by the number of weeks per month, which is 4.3.

Completing that calculation shows that, based on the paystubs submitted, [REDACTED] had monthly earned income from [REDACTED] totaling \$1,413, which is what the Department determined. The paystubs submitted also show [REDACTED] year-to-date earnings. It was testified to that [REDACTED] had only worked at [REDACTED] for four to five months. The year-to-date gross income during those four to five months show that the average monthly amount was approximately the same as what the Department determined. Thus, the Department's finding was reasonable and supported by the evidence on the record.

When determining Petitioner's total income, the total earned income of \$2,213 is reduced by a 20% deduction and added to the \$669 in unearned income, which comes to a total of \$2,439 in monthly income. The standard deduction of \$228 was then taken out, resulting in adjusted gross income of \$2,211. Petitioner did not report any child care, medical, or child support expenses. Thus, those deductions are not applicable.

Likewise, Petitioner was not eligible for the excess shelter deduction. Petitioner was not credited with any housing expenses but was eligible for the h/u standard of \$543. Adding the expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$543. The excess shelter deduction is calculated by subtracting from the \$543 one half of the adjusted gross income of \$2,211, which is \$1,105. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is less than zero, which means that the Department properly determined that Petitioner was not eligible for the excess shelter deduction. Petitioner's net income of \$2,211 is thus the same as Petitioner's adjusted gross income, which is what the Department properly found.

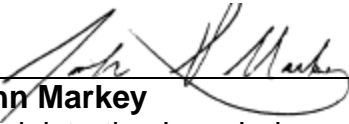
The Food Assistant Issuance Table shows \$250 in benefits for \$2,211 net income for a household of six. RFT 260 (October 2018), p. 31. This is the amount determined by the Department and is correct. The Department acted in accordance with Department policy when it determined Petitioner's FAP benefits for August 1, 2019, ongoing.

While the Department's action is affirmed, it is clear that this case involves a number of errors that the undersigned Administrative Law Judge does not have jurisdiction to address. If Petitioner would like to challenge the Department's disqualification of Petitioner from the group or add housing costs to the budget, Petitioner must report those matters to the Department. Upon any action taken after those reports (or failure to act promptly), Petitioner may request a hearing.

DECISION AND ORDER

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 FAP benefits for August 1, 2019, ongoing. Accordingly, the Department's decision is **AFFIRMED**.

JM/cg



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
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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