



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: February 22, 2019
MAHS Docket No.: 18-013893
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 21, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits for January 2019 ongoing?

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, receiving \$████ in monthly FAP benefits as of December 2018 based on █████ in monthly Retirement Survivors and Disability Insurance (RSDI) benefits and monthly expenses of \$221 for rent (Exhibit A, pp. 6-7).
2. Effective January 1, 2019, Petitioner's monthly RSDI income increased to █████
3. On December 8, 2018, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits were decreasing to \$████ monthly effective January 1, 2019 (Exhibit A, pp. 10-13).

4. On [REDACTED] 2018, the Department received Petitioner's verbal request for hearing disputing the amount of his FAP benefits.

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.

Petitioner requested a hearing to dispute the decrease in his monthly FAP benefits from [REDACTED] to \$[REDACTED] effective January 1, 2019. At the hearing, the Department explained that the decrease in FAP benefits was due to an increase in Petitioner's monthly RSDI income from [REDACTED] to \$[REDACTED] effective January 1, 2019 and presented a FAP net income budget showing the calculation of FAP benefits for January 2019. The budget was reviewed with Petitioner at the hearing.

The budget showed monthly RSDI income of \$[REDACTED] beginning January 1, 2019, which Petitioner confirmed. The deductions applied to gross income in determining Petitioner's net income were also reviewed. Because Petitioner receives income based on a disability, he is a senior/disabled/veteran (SDV) member of his FAP group. See BEM 550 (January 2017), pp. 1-2. For FAP groups with one or more SDV members and no earned income, the Department must reduce the household's gross monthly unearned income by the following deductions: the standard deduction (based on group size), child care expenses, child support expenses, verified out-of-pocket medical expenses in excess of \$35, and the excess shelter deduction. BEM 554 (August 2017), p. 1; BEM 556 (April 2018), pp. 3-5.

Petitioner, who confirmed that he was the sole member of his household, was properly considered by the Department as a single-member FAP group. As a single-member FAP group, he was eligible for a \$158 standard deduction. RFT 255 (October 2018), p. 1. Petitioner confirmed that he had no child care, child support expenses, or verified monthly medical expenses in excess of \$35. Therefore, he was not eligible for deductions for such expenses. The final deduction available in the calculation of Petitioner's net income for FAP purposes, the excess shelter deduction, is based on Petitioner's monthly housing expense and the utility standard applicable to Petitioner's

case based on the utilities he was obligated to pay. BEM 556, pp. 4-5; BEM 554, pp. 13-24. The Department testified that, at the time it calculated Petitioner's FAP allotment for January 2019, it used its information on file showing that Petitioner's monthly rent was \$221 (Exhibit A, p. 4) and, based on its understanding that Petitioner was responsible for all utilities, it determined that Petitioner was eligible for the \$543 standard heat and utility standard, the most beneficial utility standard available to a client. See BEM 554, pp. 15-20; RFT 255, p. 1. Based on \$221 in rent and the \$543 heat and utility standard, the Department properly determined that Petitioner was eligible for a \$395 excess shelter deduction.

When Petitioner's [REDACTED] gross RSDI income is reduced by the \$158 standard deduction and \$395 excess shelter deduction, his net income for FAP purposes is \$[REDACTED]. Based on net income of \$[REDACTED] and a group size of one, Petitioner was eligible for monthly benefits of [REDACTED] for January 2019. RFT 260 (October 2018), p. 5. Therefore, based on his circumstances as of January 2019, the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefits for January 2019 ongoing.

At the hearing, the Department testified that, on December 17, 2018, Petitioner submitted a change report indicating that his rent was increasing from [REDACTED] to [REDACTED] effective February 1, 2019. At the time it received Petitioner's hearing request on [REDACTED] 2018, the Department had not yet completed processing the reported change or notified Petitioner of any change to his FAP case as a result of the change. The Department testified that it timely received verification of the rent increase but that the verification also showed that Petitioner was not responsible for any utility expenses, and when it recalculated Petitioner's FAP eligibility based on this new information, it determined on January 14, 2019 that Petitioner was eligible for [REDACTED] in monthly FAP benefits beginning February 2019. Because this Department action occurred after Petitioner's [REDACTED] 2018 hearing request, Petitioner was advised he would have to request a new hearing to address that decrease so that the Department could properly prepare to explain the action and present documentation to support it. This Hearing Decision does not address the decrease in FAP benefits to [REDACTED] effective February 1, 2019.

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 calculated Petitioner's FAP benefits for January 2019.

DECISION AND ORDER

Accordingly, the Department's calculation of Petitioner's FAP benefits for January 2019 is **AFFIRMED**.



AE/tm

Alice C. Elkin

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Vivian Worden
21885 Dunham Road
Clinton Twp., MI
48036

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Macomb County