



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: January 8, 2020
MOAHR Docket No.: 19-012121
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, an in-person hearing was held on December 16, 2019, from Hamtramck, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator, and [REDACTED] Family Independence Specialist.

ISSUE

Did the Department properly fail to increase Petitioner's Food Assistance Program (FAP) benefits effective July 1, 2019?

Did the Department properly reduce Petitioner's Family Independence Program (FIP) benefit effective November 1, 2019?

Did the Department properly determine that Petitioner was eligible for \$97.00 per month in FAP benefits effective January 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 is an ongoing recipient of FIP and FAP benefits.
2. Petitioner has a daughter who resides in the household and earns \$643.00 per month.

3. Petitioner receives \$785.00 in unearned income from the Social Security Administration.
4. Petitioner also receives \$204.00 in FIP benefits.
5. On June 5, 2019, Petitioner notified the Department that two minor relative children had moved into her home.
6. The Department immediately increased Petitioner's FIP benefits to reflect the addition of the children but did not increase Petitioner's FAP benefits to reflect the addition of the children until September 1, 2019.
7. On June 20, 2019, the Department sent Petitioner a Verification of Student Information to be completed relating to one of Petitioner's minor children.
8. The Verification of Student Information did not have a due date identified on the document.
9. On October 4, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FIP and FAP benefits would be reduced effective November 1, 2019, for failure to verify the school enrollment of two of her minor children.
10. On [REDACTED] 2019, Petitioner filed a Request for Hearing disputing the Department's actions.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 filed the request for hearing disputing the Department's actions relating to failing to timely increase FAP benefits due to the placement of two minor relatives in her home. Petitioner also filed a request for hearing due to the Department removing two of her biological children from the FIP group for failure to return verifications causing a decrease in FIP benefits effective November 1, 2019. Lastly, the request for hearing disputed the reduction in FAP effective November 1, 2019.

Failure to increase FAP benefits

The Department testified that it did not receive notice that the children had been placed in Petitioner's home until July 25, 2019. However, Petitioner submitted documentation to show that she provided notice Department the children were placed in the home as of June 5, 2019.

Bridges evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates:

- Circumstance start/change date.
- Reported on.
- Verification received on.
- Date client became aware. BAM 220 (April 2017), p. 8.

Additionally, under policy, the Department is required to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. Further, changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. BAM 220, p. 7.

The Department testified that at the time of the temporary placement, the children were open on their mother's FAP case; and because of that, it could not add them to Petitioner's case.

The documentation provided by Petitioner is sufficient to find that the Department was placed on notice of the change in household group size as of June 5, 2019. Based on the policy above, the Department was required to increase Petitioner's FAP benefits no later than the first allotment issued 10 days after the change was reported, which would have been July 1, 2019. The Department confirmed that Petitioner's benefits were not increased until September 1, 2019. If the children's mother received more benefits than she was entitled, the Department may be able to recoup; however, it was required to increase Petitioner's benefits effective July 1, 2019.

Reduction in FIP benefits effective November 1, 2019

On June 20, 2019, the Department sent Petitioner a Verification of Student Information to be completed relating to a child born on February 16, 2001. The Department said that Petitioner failed to submit the completed form. The Department testified that it did not receive the completed form. The Department testified that because it did not

receive the completed form, it removed Petitioner's two children from the FIP group composition.

During the hearing, the Department stated that it sent a verification form for two of Petitioner's children. However, two blank verification forms for the same child were in the hearing packet. As such, it is found that the Department only provided documentation that it sent a verification form relating to one child. Further, the verification form submitted by the Department did not have a date in which Petitioner was required to return the form.

Petitioner provided a completed verification form for two children. The mail date on the verification form provided by Petitioner was August 29, 2019. Petitioner provided evidence that she submitted the completed forms on the same date. The Notice of Case Action was mailed on August 30, 2019, which notified Petitioner that her FIP benefits would be reduced. Because the Department failed to provide Petitioner with a due date and Petitioner returned the document prior to the negative action, it is found that it improperly removed Petitioner's two children from the FIP group composition causing a decrease in benefits effective November 1, 2019.

Reduction in FAP benefits effective November 1, 2019

In this case, Petitioner had a group size of five effective November 1, 2019. Petitioner is entitled to \$785.00 per month in income from the Social Security Administration. Petitioner testified that a portion of that money is being garnished. Petitioner also receives \$274.00 in FIP benefits. As such, Petitioner's household income is \$1,059.00. Additionally, Petitioner's daughter earns \$643.00 per month. The household is entitled to an earned income deduction of 20 percent, which in this case would amount to \$129.00. There is no additional household income. Petitioner does not have any additional income. Based on Petitioner's circumstances, the group was eligible to receive a standard deduction in the amount of \$203.00 for group size of five. RFT 255, (October 2019), p. 1. Once the standard deduction and the earned income deduction are subtracted from Petitioner's income, her adjusted gross income is \$1,370.00.

Petitioner confirmed that she has a monthly housing expense of \$850.00. Petitioner has a heat and electric expense and, therefore, was entitled to a heat and utility standard of \$518.00. *Id.* When the housing expense and the heat and utility expense are added together, Petitioner's housing cost is \$1,368.00. The Department is next required to subtract 50% of Petitioner's net income, which is \$685.00 ($\$1,370.00/2$) from her housing cost to determine her shelter deduction, which in this case would be \$683.00. Because Petitioner is disabled, the entire amount the shelter deduction. When the shelter deduction of \$683.00 is subtracted from Petitioner's adjusted gross income of \$1,370.00, it results in a net income of \$687.00.

On October 4, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits would decrease to \$561.00 effective November 1, 2019. Under Department policy, a household size with a group size of five with a net income of \$687.00 per month is entitled to \$561.00 per month in FAP

benefits. As such, it is found that the Department properly decreased Petitioner's FAP benefits to \$561.00 effective November 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 did not act in accordance with Department policy when it failed to include the two children in Petitioner's home effective July 1, 2019 and when it decreased Petitioner FIP benefits effective November 1, 2019. However, 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 did act in accordance with Department policy when it decreased Petitioner's FAP benefits effective November 1, 2019.

DECISION AND ORDER


Accordingly, the Department's decision is **AFFIRMED IN PART AND REVERSED IN PART**.

The Department's October 4, 2019 Notice of Case Action which decreased Petitioner's FAP benefits to \$561.00 per month effective November 1, 2019, is **AFFIRMED**.

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 FAP benefits for July 1, 2019 through October 30, 2019 as a result the increase in household group size as of June 5, 2019;
2. Redetermine Petitioner's eligibility for FIP benefits effective November 1, 2019;
3. If Petitioner was eligible for supplements, issue FAP supplements between July 1, 2019 through October 31, 2019 as a result of the increase in household group size as of June 5, 2019;
4. If Petitioner was eligible for supplements, issue FIP supplements effective November 1, 2019; and
5. Notify Petitioner in writing of its decision.

JAM/jaf



Jacquelyn A. McClinton
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

(via electronic mail)

[REDACTED]

Petitioner

(via first class mail)

[REDACTED]