



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: July 19, 2019
MOAHR Docket No.: 19-005301
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 June 20, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Tracie Old, Eligibility Specialist. During the hearing, a 40-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-40.

ISSUE

Did the Department properly determine Petitioner's eligibility for Family Independence Program (FIP) cash assistance and Food Assistance Program (FAP) benefits based on Petitioner's April 8, 2019 application for assistance?

FINDINGS OF FACT

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

1. On [REDACTED] 2019, Petitioner submitted to the Department an application for benefits from the Department including FIP cash assistance and FAP benefits for himself and his 14-year old son. Exhibit A, pp. 1-16.
2. On May 6, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FIP cash assistance application was denied and that he was eligible for \$256 in FAP benefits from May 1, 2019 through May 30, 2019 and \$192 per month thereafter. The Notice of Case Action included a list of income and expenses that were factored into the equation. Petitioner was found to

have \$943 in monthly unearned income, \$98 per month in housing expenses, and was granted the heat/utility standard of \$543. Exhibit A, pp. 29-29.

3. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to his FIP cash assistance and 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 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 submitted to the Department an application for FIP cash assistance and FAP benefits on [REDACTED] 2019. Petitioner is a [REDACTED]-year old disabled individual who lives with his minor son. At the time of application, the only income for the house was Petitioner's SSI income of \$771 per month along with a \$14 state supplement issued on a quarterly basis. His expenses included \$98 in housing costs, and he was responsible for utilities, including for heat. On May 6, 2019, the Department issued to Petitioner a Notice of Case Action denying Petitioner's FIP cash assistance application while approving Petitioner's application for FAP benefits at a level of \$256 for the period from May 1, 2019 through May 30, 2019 and \$192 per month starting June 1, 2019, ongoing. Petitioner timely requested a hearing objecting to the denial of his FIP cash assistance application and level of FAP benefits.

FIP CASH ASSISTANCE DENIAL

During the hearing, the Department representative, Ms. Old, indicated that Petitioner was not denied FIP cash assistance and was in fact presently receiving \$158 per month. However, Ms. Old acknowledged that the Notice of Case Action that was appealed indicated otherwise. She further acknowledged that there was no other

Notice of Case Action subsequently issued that accurately informed Petitioner of his eligibility for those benefits.

Clients have a right to be accurately informed of the Department's case actions that impact their eligibility. BAM 220 (April 2019), pp. 2, 21. In this case, the Department allegedly approved Petitioner's FIP cash assistance and was dispensing the benefits to Petitioner up to the date of hearing. However, the most recent Notice of Case Action involving those benefits indicated that Petitioner was ineligible for those benefits. Thus, the Department has not followed Department law and policy with respect to notifying Petitioner of its decisions.

FAP BENEFITS

Petitioner objected to the reduction of his FAP benefits, starting June 1, 2019. During the hearing, the Department explained that it reduced Petitioner's FAP benefits, effective June 1, 2019, because it began to factor in the \$158 Petitioner was allegedly receiving in FIP cash assistance. However, as no evidence was presented to substantiate that Petitioner was actually receiving that income, the Department could not meet its burden of proving that the income figures it used were accurate. Thus, the Department's decision regarding Petitioner's FAP benefits cannot be upheld.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FIP cash assistance and FAP benefits as indicated on the May 6, 2019 Notice of Case Action.

DECISION AND ORDER

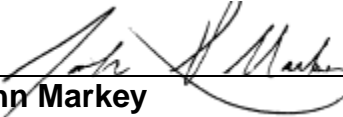
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's [REDACTED] 2019 application;
2. Redetermine Petitioner's eligibility for FIP cash assistance and FAP benefits as of the time of application going forward;
3. If Petitioner is eligible for additional benefits that were not provided, promptly issue to Petitioner a supplement; and

4. Correctly notify Petitioner in writing of its decisions.

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-Jackson-Hearings
G. Vail
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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