



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: June 28, 2019
MOAHR Docket No.: 19-005379
Agency No.: [REDACTED]
[REDACTED]awi

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 24, 2019, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Audrea Jones, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 FAP recipient and was receiving \$ [REDACTED] per month since January 2019.
2. On May 12, 2019, Petitioner completed a mid-certification review of his FAP benefit case (Exhibit A).
3. On May 17, 2019, the Department sent Petitioner a Verification Checklist (VCL) (Exhibit B).
4. On [REDACTED] 2019, Petitioner submitted a request for hearing.

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 disputed the Department's determination of his FAP eligibility. Specifically, Petitioner argued that the Department did not properly calculate his excess shelter deduction, in that he was not given a housing expense.

Petitioner was an ongoing FAP recipient. Petitioner was receiving █████ per month in FAP benefits. On May 12, 2019, Petitioner completed a mid-certification review of his FAP benefit case. The Department sent Petitioner a VCL on May 17, 2019, requesting verification of his housing expense, as he had reported a change in his property taxes in the mid-certification review. Proofs were due on May 29, 2018.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 13. The expense must be a continuing one. BEM 554, p. 13. The Department will verify shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. BEM 554, p. 14. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

The Department did not include a housing expense in Petitioner's FAP budget, and determined he was still entitled to \$████ per month in FAP benefits (Exhibit C). The Department testified that Petitioner did not timely submit verification of his property taxes. As such, the expense was not included in Petitioner's FAP budget. The Department testified that it had previously received verification that Petitioner had borrowed money from a friend to pay his mortgage and was repaying the friend \$300 per month (Exhibit E). The Department stated that it did not consider the personal loan to be a housing expense. Therefore, Petitioner was not budgeted a housing expense.

The Department presented Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The ECF revealed Petitioner did not return verification of his property taxes. Therefore, the Department acted in accordance with policy when it did not budget the expense. However, the Department erred when it failed to include the amount Petitioner pays per month toward the personal loan. Policy states that "other payments" can be included as a housing expense. Although Petitioner does not have a traditional mortgage, the expense he pays per month is related to his housing expense. Thus, the Department did not act in accordance with policy when it calculated Petitioner's excess shelter deduction. As it follows, the Department did not act in accordance with policy when it determined Petitioner's FAP benefit amount.

DECISION AND ORDER

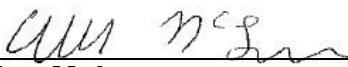
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner's FAP eligibility.

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. Redetermine Petitioner's FAP eligibility as of May 1, 2019, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements he is entitled to receive.
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore
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-18-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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