



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 5, 2019
MOAHR Docket No.: 19-008177
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 29, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Richkelle Curney.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 Food Assistance Program (FAP) recipient as a group of one receiving a \$192 monthly allotment of benefits with a certification period of August 1, 2017, through July 31, 2019. Exhibit A, p 11.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$808. Exhibit A, pp 8-9.
3. Petitioner is responsible for a \$175 monthly housing expense. Exhibit A, pp 6-7.
4. On July 19, 2019, the Department notified Petitioner that she was approved for a \$114 monthly allotment of Food Assistance Program (FAP) benefits effective August 1, 2019. Exhibit A, pp 4-5.
5. On July 26, 2019, the Department received Petitioner's request for a hearing protesting her Food Assistance Program (FAP) benefits. Exhibit A, pp 2-3.

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(July 1, 2019), p 5.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2019), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

A timely hearing request is a request received by the Department within 10 days of the date the notice of case action was issued. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action. BAM 600, p 25.

However, for FAP benefits, the benefits are reinstated to the former level only if the benefit period has not expired. BAM 600, p 26.

Petitioner is an ongoing FAP recipient as a group of one. On July 29, 2019, the Department initiated a routine review of her eligibility for ongoing FAP benefits for a new certification period beginning August 1, 2019. Petitioner receives RSDI in the gross monthly amount of \$808. Petitioner's adjusted gross income of \$393 was determined by reducing her monthly income by the \$158 standard deduction.

Petitioner is entitled to a \$393 shelter deduction, which was determined by reducing the sum of her \$175 housing expense and the standard \$543 heat and utility deduction by 50% of her adjusted gross income.

Petitioner's net income of \$257 was determined by reducing her adjusted gross income by her shelter deduction. A group of one with a net income of \$257 is entitled to a \$114 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 4.

Petitioner did not dispute the determination of her income and expense obligations, but argued that by filing a timely request for a hearing within 10 days of the Department mailing its notice of her eligibility for FAP benefits, that the Department should have restored her monthly allotment of FAP benefits to the prior level pending the outcome of her hearing request.


Department policy does allow for a reduction of benefits to be pended while awaiting an administrative hearing, except that FAP benefits are reinstated to the former level only if the benefit period has not expired. In this case, the evidence supports a finding that Petitioner's FAP benefit certification period has expired July 31, 2019, and the Department was acting in accordance with BAM 600 when it did not restore her FAP benefits to the previous level.

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 eligibility for Food Assistance Program (FAP) benefits effective August 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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