



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: October 7, 2019
MOAHR Docket No.: 19-009345
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 September 26, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Family Independence Manager, Julie McLaughlin. Ms. McLaughlin testified on behalf of the Department. The Department submitted 27 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's earned income resulting in a decrease to Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On [REDACTED], 2019, Petitioner applied for Child Development and Care (CDC) benefits. The application was processed using the Work Number to verify current income. Petitioner's most recent paystubs for July 12, 2019 and July 26, 2019 showed receipt of \$724.61 and \$447.86 respectively. [Dept. Exh. 4-8].
2. On August 6, 2019, a Notice of Case Action was mailed to Petitioner informing her that her FAP benefits would decrease to \$288.00 a month effective September 1, 2019. [Dept. Exh. 15-17].

3. On August 6, 2019, the Department approved Petitioner's CDC application.
4. On August 27, 2019, Petitioner submitted a hearing request contesting the decrease in FAP benefits. [Dept. Exh. 2-3].
5. On August 28, 2019, in preparation for the scheduled pre-hearing conference, the Department retrieved income information from the Work Number. The most recent paystub for August 9, 2019 showed an income of \$617.87. This amount was added to the two previous paystubs for a total of \$1,790.34 and divided by three for an average of \$598.78 and multiplied by 2.15 resulting in a monthly income of \$1,283.08. Child support had also not been averaged in. The resulting changes in income decreased Petitioner's FAP benefits to \$279.00 a month, effective October 1, 2019. [Dept. Exh. 10-11; 20-26].

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 submitted an application for CDC benefits on August 5, 2019. The receipt of new information from an active client of other programs causes a review of all programs. The Department ran a verification of Petitioner's income on the Work Number, and the last two paystubs shown on the Work Number, resulted in a higher monthly income than previously budgeted, decreasing Petitioner's FAP benefits to \$288.00, effective September 1, 2019.

Further, when the Department was preparing for the pre-hearing, the Department again checked Petitioner's income with the Work Number and included the new paystub in the calculations in addition to receipt of child support that was not previously calculated, resulting in a further decrease in FAP benefits to \$279.00 a month effective October 1, 2019.

Petitioner did not contest the amounts of her paystubs. Petitioner did not understand how applying for CDC resulted in a decrease in FAP benefits. The Department explained the process to Petitioner. Petitioner testified that she is an on-call worker and her income varied from month-to-month. The Department explained that whenever Petitioner had a change in income, she needed to notify the Department because

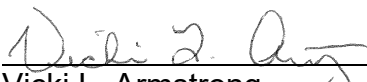
depending on the change, it could result in an increase in FAP benefits if her income decreased. Petitioner indicated that she understood.

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 decreased Petitioner's FAP allotment based on the changes in her earned income.

DECISION AND ORDER

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

VLA/nr



Vicki L. Armstrong
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

Jackie Stempel
2700 Baker Street
PO Box 4290
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Muskegon County DHHS- via electronic
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M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]