



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: November 1, 2019
MOAHR Docket No.: 19-009972
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 October 30, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) failed to appear for the hearing.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective October 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 was an ongoing recipient of FAP benefits from the Department in a household of one.
2. Petitioner's monthly income consists entirely of unearned income totaling \$698.50.
3. Petitioner's monthly housing expense is \$300 per month. Petitioner is also responsible for utilities, including gas heat.
4. Petitioner also has monthly recurring medical expenses in the form of medications that total between \$5 to \$12.

5. On September 7, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her monthly FAP benefits would be reduced to \$████ per month, effective October 1, 2019.
6. On ██████████, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 requested a hearing to contest the Department's reduction of her monthly FAP allotment from \$████ to \$████ effective October 1, 2019. During the hearing, Petitioner credibly testified that she had monthly housing expenses of \$300 and was responsible for paying for gas to heat her home. She further testified that she received \$698.50 per month in unearned income. Petitioner also stated that she had monthly medical expenses that ranged from \$5 to \$12. The Department did not appear at the hearing to contest any of Petitioner's assertions regarding her income and expenses.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits, and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. Additionally, the FAP calculation takes into consideration certain expenses and other deductions that apply to reach a final net income for the purposes of determining the monthly FAP benefit amount.

Petitioner's monthly income of \$698.50 must first be converted to a monthly income figure of \$698 by dropping the cents from the amount. BEM 556 (July 2019), p. 3. Next, the standard deduction of \$161 must be removed, resulting in an adjusted gross income of \$537. RFT 255 (October 2019), p. 1. Petitioner does not qualify for the child care or child support deductions as she does not report having any related expenses. Additionally, while Petitioner does report recurring medical expenses, they are

insufficient to activate the medical expense deduction, which only applies to expenses greater than \$35. BEM 554 (October 2019), p. 1.

However, Petitioner is eligible for the excess shelter deduction. Petitioner has monthly housing costs of \$300. Petitioner was also eligible for the h/u standard of \$518 based on the fact that Petitioner pays for gas heat at her home. RFT 255, p. 1. Adding the expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$818. The excess shelter deduction is calculated by subtracting from the \$818 one half of the adjusted gross income of \$537, which is \$268. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$550. Petitioner's net income is calculated by subtracting the excess shelter deduction (\$550) from the adjusted gross income (\$537). As the excess shelter deduction is greater than the adjusted gross income, that leaves Petitioner with a net income of \$0.

The Food Assistant Issuance Table shows \$194 in benefits for \$0 net income for a household of one. RFT 260 (October 2019), p. 1. This is not the amount determined by the Department.

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 eligibility for FAP benefits, effective October 1, 2019.

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. Issue to Petitioner a supplement for October 2019 in the amount of \$█ so that her total allotment for the month is \$█;
2. Redetermine Petitioner's FAP eligibility for November 1, 2019, ongoing, based on Petitioner's actual income figures;
3. If information regarding any eligibility-related factor, such as income, is unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications; and

4. Notify Petitioner in writing of its decisions.

JM/tm



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

DHHS

Richard Latimore
4733 Conner
Detroit, MI
48215

Petitioner



cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County