



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: October 21, 2018  
MOAHR Docket No.: 19-010052  
Agency No.: ██████████  
Petitioner: ██████████

**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 16, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Assistance Payments Supervisor. During the hearing, a 12-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-12.

**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. Petitioner has serious medical issues that have resulted in Petitioner incurring sizable medical expenses on a somewhat regular basis.
2. Prior to the contested action in this case, the Department included in the monthly budget for determining Petitioner's level of FAP benefits a recurring medical expense of ██████. Exhibit A, p. 11.

3. On August 23, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her monthly FAP benefits would be reduced to \$15. That reduction was mostly attributable to the Department removing from Petitioner's budget the recurring medical expense of [REDACTED] and replacing it with a recurring medical expense of [REDACTED]. Exhibit A, pp. 5-9.
4. On September 10, 2019, the Department received from Petitioner 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 sought a hearing to contest the Department's reduction of Petitioner's FAP benefits to \$[REDACTED] per month, effective October 1, 2019. The change was the result of the Department's removal from the FAP budget of an [REDACTED] monthly medical expense and replacement with a [REDACTED] monthly medical expense.

Petitioner is entitled to have medical expenses she incurs factored in as an expense to be applied to the calculation of her Food Assistance benefit allotment. BEM 554 (October 2019), pp. 8-12.

Petitioner's position is that she is getting shortchanged on the medical expense portion of her FAP budget. During the hearing, the Department witness was unable to explain how the Department concluded that Petitioner was entitled to a [REDACTED] per month medical expense and provided no documentary evidence to substantiate the Department's conclusion.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the

client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

Based on the evidence in the record, the Department failed to meet its burden of showing that its action was taken in compliance with law and policy. Petitioner challenged the Department's reduction of medical expenses in her FAP budget. In order for the Department to prevail in this matter, it had to demonstrate why it made the decision that it did, which was to reduce budgeted medical expenses from [REDACTED] to [REDACTED]. Instead of doing that, the Department only explained and provided evidence of what it did. That is not sufficient to substantiate its action.

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 eligibility for FAP benefits, effective October 1, 2019.

### **DECISION AND ORDER**

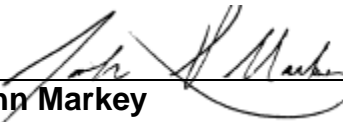
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's FAP benefits for October 2019, ongoing, ensuring that all reported and verified medical expenses are properly factored into Petitioner's FAP budget;
2. If Petitioner is found eligible for additional FAP benefits, promptly issue a supplement; and

3. Notify Petitioner in writing of its decisions.

JM/tm



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**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**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CC:**

[REDACTED]  
[REDACTED]