



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: October 21, 2019
MOAHR Docket No.: 19-010068
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 16, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker. During the hearing, a 41-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-41.

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.
2. Prior to the action challenged in this matter, the Department was only budgeting [REDACTED] of income, all of which was from Petitioner's self-employment. Exhibit A, pp. 7-20.
3. On August 4, 2019, Petitioner began working for [REDACTED] (TSA). She received her first paycheck from TSA on August 23, 2019. Exhibit A, pp. 25-26.

4. On August 19, 2019, the Department issued to Petitioner a New Hire Client Notice after an automated system identified her new position with TSA. Petitioner was instructed to fill out and return the form along with paycheck stubs to verify her new earnings. Exhibit A, pp. 25-28.
5. On August 28, 2019, the Department received the completed New Hire Client Notice along with paycheck stubs showing Petitioner's earnings. Exhibit A, pp. 25-28.
6. The Department processed Petitioner's submission and issued an August 29, 2019 Notice of Case Action informing Petitioner that her monthly FAP benefits would be reduced, effective October 1, 2019. Starting October 1, 2019, Petitioner began receiving [REDACTED] per month in FAP benefits. The document explained that the reduction was based on an increase in Petitioner's income. Further, the document showed that the Department determined that Petitioner's new earned income from her new employment was calculated to be [REDACTED] per month. Exhibit A, pp. 31-34; 37-41.
7. On September 6, 2019, Petitioner orally requested a hearing to contest the Department's determination of her FAP eligibility, effective October 1, 2019.

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 challenged the reduction in her monthly FAP benefits, effective October 1, 2019, that was caused by the Department's inclusion into the FAP budget new income from Petitioner's new employment with TSA. At the hearing, Petitioner argued that the new income was essentially a replacement of the former self-employment income that she received. Petitioner's position is that the Department overstated Petitioner's income by adding the new income to the budget while leaving the self-employment income in the budget as well. The Department contends that it acted appropriately as it had no reason to believe that the self-employment income should be reduced or ended as Petitioner never reported that fact to the Department prior to the hearing.

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. When a client has countable income, the Department must determine a standard monthly amount for that source of income. BEM 505 (October 2017), p. 8. When there is a decrease in income, the Department must process the change so that it affects the month after the month the change is reported or occurred, whichever is earlier, **provided the change is reported timely**. BEM 505, p. 10. Supplements are not issued to correct underissuances caused by a client's failure to report the reduction in income in a timely manner. BEM 505, p. 10.

Based on the above cited policy, the Department correctly continued to include in the budget Petitioner's income from her self-employment because Petitioner did not report to the Department that the income had changed in any way. Thus, the rest of the decision will focus on whether the additional income was properly added to the case.

The information in the record is that Petitioner's new job paid her [REDACTED] per hour and that she was expected to work approximately 21 hours per week. That breaks down to a monthly income figure of [REDACTED]. Also included in the record are copies of two paycheck stubs, one of which only covers a partial pay period. The only paycheck stub covering an entire pay period shows that Petitioner had gross earnings of [REDACTED] over a two week period.

To determine monthly earned income when an individual is paid more often than on a monthly basis, the Department is required to determine a weekly amount then multiply that amount by 4.3 to get the monthly total. BEM 505, p. 7. Thus, Petitioner's two weeks of earnings totaling \$[REDACTED] must be divided by two to get a weekly earnings figure of \$[REDACTED]. Multiplying that figure by 4.3 results in a monthly income of [REDACTED]. The Department budgeted [REDACTED] per month as Petitioner's earned income from her new job, which based on the evidence presented, is supportable and more favorable than Petitioner's own self-attested income.

Thus, adding the previously budgeted amount of [REDACTED] from Petitioner's self-employment income to the new job income of [REDACTED], Petitioner's monthly earned income totaled [REDACTED] which is what the Department determined.

Petitioner's [REDACTED] in earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1; BEM 556 (April 2018), p. 3. Subtracting the 20% earned income deduction from Petitioner's earned income results in a post-deduction total of [REDACTED]. That figure is further reduced by taking out the standard deduction applicable to Petitioner's group size, which is [REDACTED], resulting in an adjusted gross income of [REDACTED]. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

Petitioner was not eligible for the excess shelter deduction. Petitioner did not report any housing costs to the Department. Petitioner was eligible for the heat and utility (h/u) standard of [REDACTED]. RFT 255 (October 2019), p. 1. Thus, Petitioner's total housing expenses were [REDACTED]. The excess shelter deduction is calculated by subtracting from the total shelter expenses [REDACTED] one half of the adjusted gross income [REDACTED]. One half of the adjusted gross income is [REDACTED]. The remaining amount, if greater than \$0, is the excess shelter deduction. In this case, the remaining amount is less than \$0. Thus, Petitioner is not eligible for the excess shelter deduction.


The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. As there was no excess shelter deduction, the Petitioner's net income was the same as her adjusted gross income of [REDACTED]. The Food Assistance Issuance Table shows [REDACTED] in monthly FAP benefits for a household of one with a net income of [REDACTED]. RFT 260 (October 2019), p. 15. That is what the Department determined. Thus, the Department is affirmed.

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 FAP benefits, effective October 1, 2019.

DECISION AND ORDER

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

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

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

Petitioner

[REDACTED]
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[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]