



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], MI [REDACTED]

Date Mailed: October 25, 2019
MOAHR Docket No.: 19-010259
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, hearing was held on October 17, 2019. Petitioner appeared unrepresented. [REDACTED] appeared as a witness on behalf of Petitioner.

The Department of Health and Human Services (Department) was represented by Valarie Foley, HF.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. On August 21, 2019, Petitioner applied for FAP for a group size of five.
2. After calculating the FAP budget, the allotment shows eligibility for a partial month of August 21, 2019, to August 31, 2019, of \$81.00; September, 2019 of \$288.00, and October 1, 2019, ongoing of \$291.00.
3. On September 17, 2019, Petitioner filed a hearing request.

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.

FAP budgeting and expenses are found at BEM 550, 556, 554, and 500-505. Corresponding federal regulations are found at 7 CFR 273.9, 273.10, 273.11, and 273.2.

In this case, Petitioner does not dispute that actual amount of income counted for all the group members. Rather, Petitioner points out that during the month of August 2019, for which most of the budget and budget projections are based, one adult member of the FAP group has an unusual amount of overtime which basically triggered a FAP allotment that would be less than typical based on that income for the members of the FAP group.

The Department pointed out that policy requires the Department to calculate the FAP budget based on income verifications submitted at the time of the application. Thus, based on this policy the Department was required to calculate Petitioner's eligibility based on the overtime.

However, Petitioner understands that she may submit new and updated income verifications and have the group FAP benefits recalculated at any time.

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 calculated the FAP eligibility herein, and thus the calculation must be upheld.

However, the very pleasant Petitioner and her very pleasant witness also understands that they may be entitled to an adjustment upon submission of income that does not reflect the high amount of overtime paid in August 2019.

DECISION AND ORDER

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

JS/hb



Janice Spodarek

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

Susan Noel
26355 Michigan Ave
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]