



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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[REDACTED]

Date Mailed: November 18, 2019
MOAHR Docket No.: 19-010319
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 November 13, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 22-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-22.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits, effective June 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. Her FAP group consisted of herself and one other household member.
2. In early May 2019, Petitioner began receiving unemployment benefits from the State of Michigan Unemployment Insurance Agency. Every two weeks from May 4, 2019 through at least August 10, 2019, Petitioner received gross unemployment income of \$462. Exhibit A, pp. 6-7.

3. When the Department factored in Petitioner's new income for the purposes of determining Petitioner's ongoing FAP benefits, it caused Petitioner's monthly FAP benefits to be reduced from \$353 to \$268. Exhibit A, pp. 9-15.
4. In addition to the income, the Department took into consideration Petitioner's verified shelter expenses of \$1,000 per month and applied the heat and utility (h/u) standard. Exhibit A, pp. 9-15.
5. On August 26, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for \$268 per month in FAP benefits.
6. On [REDACTED], 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 has objected to the Department's determination of her monthly FAP benefits, effective June 1, 2019. Prior to June 1, 2019, Petitioner was receiving \$353 per month in FAP benefits. Effective June 1, 2019, Petitioner began receiving \$268 per month in FAP benefits.

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.

First, Petitioner's unemployment income must be converted to a standard monthly amount. As Petitioner was receiving \$462 every two weeks, that amount must be multiplied by 2.15 to come up with a standard monthly amount of \$993. BEM 505 (April 2017), p. 8.

Next, the standard deduction of \$158 must be removed from Petitioner's gross income of \$993, resulting in an adjusted gross income of \$835. RFT 255 (October 2018), p. 1. Petitioner does not qualify for the child care, medical, or child support deductions as she does not report having any related expenses.

However, Petitioner is eligible for the excess shelter deduction. Petitioner has monthly housing costs of \$1,000. Petitioner was also eligible for the h/u standard of \$543 based on the fact that Petitioner pays for heat at her home. RFT 255, p. 1. Adding the expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$1,543.

The excess shelter deduction is calculated by subtracting from the \$1,543 one half of the adjusted gross income of \$835, which is \$417. The remaining amount, if it is greater than \$0, is the excess shelter deduction, up to the maximum allowable amount. In this case, the remaining amount is \$1,126. However, Department policy dictates that the maximum allowable excess shelter deduction is \$552. Thus, Petitioner is entitled to the maximum. Petitioner's net income of is calculated by subtracting the excess shelter deduction (\$552) from the adjusted gross income (\$835). That leaves Petitioner with a net income of \$283.


The Food Assistance Issuance Table shows \$268 in benefits for \$283 net income for a household of two. RFT 260 (October 2018), p. 4. This is 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 acted in accordance with Department policy when it determined that Petitioner was eligible for \$268 per month in FAP benefits, effective June 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

Susan Noel
26355 Michigan Ave
Inkster, MI
48141

Petitioner

[REDACTED]
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[REDACTED]

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