



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 20, 2019
MOAHR Docket No.: 19-010378
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. A telephone prehearing conference was scheduled for October 23, 2019. After due notice, telephone hearing was held on November 12, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Markita Mobley.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 September 7, 2019, the Department notified Petitioner that she was eligible for a \$91 monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 5-8.
2. On September 17, 2019, the Department received Petitioner's verbal request for a hearing protesting the level of Food Assistance Program (FAP) benefits she is receiving.

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.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2019), p 14.

Petitioner is an ongoing FAP recipient. On September 7, 2019, the Department notified Petitioner that she was eligible for a \$91 monthly allotment of FAP benefits as of October 1, 2019. The Department presented evidence to establish that Petitioner's countable income has not change. The only change in the determination of Petitioner's eligibility for FAP benefits was the change of the standard deduction and the standard heat and utility deduction.

Regulations governing the hearing and appeal process for recipients of Food Assistance Program (FAP) benefits in Michigan who, as a group, are affected by a federal or state-initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(2) states that “[a] hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.”

Petitioner testified that she was protesting the Department's failure to apply her increased rent expenses towards her eligibility for FAP benefits. This is an issue falling under the jurisdiction of the Michigan Office of Administrative Hearing System (MOAHR).

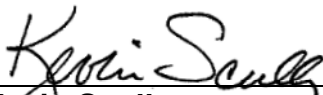
However, Petitioner failed to offer evidence to establish that her increased rent expense was reported and verified in a timely manner. Therefore, the Department is prohibited from applying this expense towards her eligibility for FAP benefits until this increased expense is verified. When the Department receives this verification, Petitioner's eligibility for ongoing FAP benefits will change in the future.

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 Food Assistance Program (FAP) benefits as of October 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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