



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]
[REDACTED]

Date Mailed: November 7, 2019
MOAHR Docket No.: 19-010564
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 28, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Hiva Murray, Family Independence Specialist. During the hearing, a 26-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-26.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits, effective November 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. Petitioner is a disabled individual who lives in a household of one. Petitioner receives unearned income of \$806 per month. Petitioner also has verified housing expenses of \$155 per month and is responsible for utilities, including heat. Exhibit A, pp. 17-20.
3. The Department determined that Petitioner was eligible for \$105 in FAP benefits, effective November 1, 2019. Exhibit A, p. 15.

4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of his FAP eligibility.

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 objected to the Department's determination that Petitioner was eligible for \$105 of FAP benefits per month, effective November 1, 2019. Petitioner's FAP benefits for November 2019, ongoing, were calculated on the basis of Petitioner having monthly unearned income of \$806 and monthly housing expenses of \$155. Furthermore, the calculation included a standard deduction of \$161 and the application of the heat/utility (h/u) standard of \$518.

Petitioner acknowledged the unearned income amount. The standard deduction of \$161 was then taken out, resulting in adjusted gross income of \$645. RFT 255 (October 2019), p. 1. Petitioner did not report any child care or child support expenses. Thus, those deductions are not applicable.

Petitioner did, however, argue that the Department erred in failing to consider medical expenses he submitted. Petitioner is disabled and receives Social Security Disability and is entitled to have medical expenses he incurs factored in as an expense to be applied to the calculation of his Food Assistance benefit allotment. BEM 554 (August 2017), pp. 8-12. The evidence on the record shows that the only medical expenses he submitted were properly factored into previous month's budgets. The additional expenses Petitioner argued for inclusion had not been verified. Instead, Petitioner provided notes from his doctor advising him to purchase certain products. In order to benefit from the medical expense deduction, Petitioner would have to show that he actually incurred the expense, not just that he was advised to do so. Thus, Petitioner's adjusted gross income is \$645.

Petitioner is eligible for the excess shelter deduction. Petitioner had verified housing costs of \$155 per month. Petitioner was also eligible for the h/u standard of \$518 based on the fact that Petitioner pays for heat at his home. RFT 255, p. 1. Adding the

expenses Petitioner qualified for together, Petitioner had monthly shelter expenses of \$673. The excess shelter deduction is calculated by subtracting from the \$673 one half of the adjusted gross income of \$645, which is \$322. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$323. Petitioner's net income of \$294 is calculated by subtracting the excess shelter deduction (\$351) from the adjusted gross income (\$645).

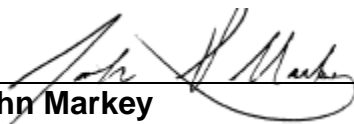
The Food Assistant Issuance Table shows \$105 in benefits for \$294 net income for a household of one. RFT 260 (October 2019), p. 5. This is the amount determined by the Department and is correct. The Department acted in accordance with Department policy when it determined Petitioner's FAP benefits, effective November 1, 2019, ongoing.

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 November 1, 2019, ongoing.

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

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