



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: November 20, 2019
MOAHR Docket No.: 19-011163
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. After due notice, a telephone hearing was held on November 14, 2019, from Lansing, Michigan. Petitioner was represented by her Authorized Representative (AR) [REDACTED]. The Department was represented by Tonya Boyd and Lisa Smith.

ISSUE

Did the Department of Health and Human Services (Department) properly deny allowing Petitioner the mandatory heat and utility standard deduction?

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 July 20, 2019, the Department notified Petitioner that she was eligible for a \$15 monthly allotment of Food Assistance Program (FAP) benefits as of September 1, 2019. Exhibit A, pp 6-10.
2. Petitioner is receiving a standard \$135 non-heat electric deduction and a standard \$31 telephone deduction, and a \$189 housing expenses deduction. Exhibit A, p 7.
3. Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$170, monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$14, and Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$621. Exhibit A, pp 12-14.

4. On October 10, 2019, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, p 3.

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 heat and utility standard is an available deduction that covers all heat and utility costs including cooling, except actual utility expenses and is available to FAP recipients that are responsible for heating/cooling expenses separate from their housing expense. Benefit groups whose heat is included in their rent may still qualify for the heat and utility standard deduction if they receive the Home Heating Credit (HHC), or a Low Income Home Energy Assistance Payment (LIHEAP) greater than \$20 in the month of application or in the immediately preceding 12 months. The LIHEAP payments may include State Emergency Relief (SER) benefits or Michigan Energy Assistance Program (MEAP) payments. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2019), pp 15-20.

Petitioner is an ongoing FAP recipient. Petitioner's monthly rent expense includes her obligation to pay heating expenses, which was not disputed during the hearing.

Petitioner provided a memorandum from her landlord stating that she received LIHEAP payments greater than \$20 since 2017.

However, the criteria to receive the heat and utility deduction is not receiving LIHEAP payments since 2017, but receiving LIHEAP payments in the preceding 12-month period. Petitioner may or may not have been eligible to receive the HHC, or a MEAP payment, but if she did not receive any of those funds and provide the Department with verification of that payment within the preceding 12-month period, then she is not eligible for the heat and utility deduction.

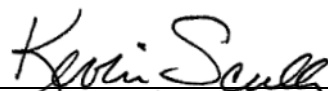
In this case, Petitioner failed to offer evidence to establish that she meets any of the criteria for the Department to apply the heat and utility deduction towards her eligibility for FAP benefits.

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 denied the mandatory heat and utility standard deduction.

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

Denise McCogle
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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