



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]

Date Mailed: November 22, 2019
MOAHR Docket No.: 19-011491
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 20, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Marlon Dorsey, Family Independence Manager, and Michelle Kubiak, Assistance Payments Worker. During the hearing, a 33-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-33.

ISSUE

Upon processing Petitioner's [REDACTED] 2019 application, did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

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 [REDACTED], 2019, Petitioner submitted to the Department an application for FAP benefits for her household, which includes herself and her minor child.
2. As part of the application process, Petitioner provided to the Department a residential lease and two paycheck stubs showing her earnings over four weeks from her job at [REDACTED] ([REDACTED]). The lease showed that Petitioner paid \$[REDACTED] per month in rent and was responsible for paying utility bills, including those for heat. The two paycheck stubs show that Petitioner received

gross earnings of [REDACTED] on September 13, 2019 and [REDACTED] on September 27, 2019. Exhibit A, pp. 21-27.

3. On [REDACTED] 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for [REDACTED] in FAP benefits from [REDACTED], 2019 through [REDACTED], 2019 and \$ [REDACTED] per month, effective [REDACTED], 2019, ongoing. Exhibit A, pp. 5-12.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of her 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 she was eligible for \$ [REDACTED] in FAP benefits from [REDACTED], 2019 through [REDACTED], 2019 and \$ [REDACTED] per month, effective [REDACTED], 2019, ongoing. The Department determined Petitioner's FAP benefits based on Petitioner's verified income and expenses. The Department budgeted [REDACTED] of earned income and a [REDACTED] housing expense. The Department also applied the heat and utility (h/u) standard of [REDACTED] and the standard deduction of [REDACTED].

Petitioner objected to the Department's determination that she had monthly earned income of \$ [REDACTED]. To determine monthly earned income when an individual is paid more often than on a monthly basis, the Department is required to determine a weekly amount then multiply that amount by 4.3 to get the monthly total. BEM 505 (October 2017), p. 7. Thus, Petitioner's four weeks of earnings totaling \$ [REDACTED]¹ must be divided by four to get a weekly earnings figure of \$ [REDACTED]. Multiplying that figure by 4.3 results in a monthly income of \$ [REDACTED]. The Department budgeted \$2,635 per month as Petitioner's earned income, which based on the evidence presented, was correct.

¹ That number represents the sum of the two paychecks issued on September 13, 2019 and September 27, 2019.

FAP BENEFITS, ██████████, 2019, ONGOING

Petitioner's monthly earned income was \$██████. Earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1; BEM 556 (July 2019), p. 3. Subtracting the 20% earned income deduction from Petitioner's earned income results in a post-deduction total of \$██████. That figure is further reduced by taking out the standard deduction applicable to Petitioner's group size, which is \$██████, resulting in an adjusted gross income of \$██████. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

Petitioner was, however, correctly determined to be eligible for the excess shelter deduction. Petitioner had verified housing costs of \$██████. Petitioner also qualified for the h/u standard of \$██████. Adding Petitioner's housing expenses together results in total housing expenses of \$██████. The excess shelter deduction is calculated by subtracting from the total housing expense figure (\$██████) one half of the adjusted gross income, which is \$██████. The remaining amount, if greater than zero, is the excess shelter deduction. The remaining amount is \$██████. However, the maximum excess shelter deduction for Petitioner's group is \$██████. RFT 255 (October 2019), p. 1.

Petitioner's net income is then calculated by subtracting the excess shelter deduction of \$██████ from the adjusted gross income of \$██████ which equals ████████. The Food Assistance Issuance Table shows \$16 in monthly FAP benefits for a household of two with a net income of \$██████. RFT 260 (October 2019), p. 19. That is what the Department determined and is correct. Thus, the Department is affirmed.

FAP BENEFITS ██████████, 2019 THROUGH ██████████, 2019

When an application for FAP benefits is filed during a month, the applicant may receive prorated FAP benefits for that month, so long as the amount is at least \$10. BEM 556, p. 6. The same income and expense information detailed above applied to the period from ██████████, 2019 through ██████████, 2019.

As there were 21 days Petitioner was eligible during the month of October, which has 31 days, Petitioner's prorated benefits are calculated by dividing \$██████ by 31 then multiplying that figure by 21. The result is an allotment of \$██████. The evidence presented at the hearing established that Petitioner was given the correct allotment of \$██████ in FAP benefits for that period.

DECISION AND ORDER

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 from ██████████, 2019 through ██████████, 2019 and ██████████, 2019, ongoing.

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

Kimberly Kornoelje
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Grand Rapids, MI
49507

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
AP Specialist Kent (3)