



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 20, 2019
MOAHR Docket No.: 19-012201
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 hearing was held on December 11, 2019, from Lansing, Michigan. Petitioner appeared unrepresented. [REDACTED] appeared as a witness. The Department of Health and Human Services (Department) was represented by Eric Murphy, ES Worker.

ISSUE

Did the Department properly issue Petitioner's October and November 2019 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. At all relevant times prior to the action(s) herein, Petitioner was a FAP recipient for a group size of three.
2. On August 30, 2019 and September 30, 2019, the Department issued notice to that two of Petitioner's FAP group members were time limited out of the FAP program.
3. Petitioner's October 2019 FAP benefits were reduced by one. Petitioner's November 2019 FAP benefits were reduced by two members.
4. In December, the Department issued a late verification request, due on December 5, 2019, regarding the 2 members. Petitioner delivered the verification on December 3, 2019, showing that the two members have always met the time limited policy requirements.

5. Effective December 1, 2019, the Department continued Petitioner's FAP benefits for a group size of three.
6. On November 6, 2019, Petitioner filed a hearing request disputing the October and November 2019 FAP benefits.

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.

Applicable policy to the case here is found primarily at BEM 620. Corresponding federal regulations are found at 7 CFR 273.23, 273.1, 273.7, 273.11.

In this case, at the administrative hearing, the Department testified that the Department erred. Specifically, the Department indicated that Petitioner's file contained adequate verifications that the two members in this case always did meet the TLFS policy. Moreover, the December 3, 2019 verification was issued to Petitioner late by the Department. Thus, Petitioner did not return the verifications late, as the Department had not requested the verification timely, as required by policy. Petitioner's FAP benefit reduction in the October 2019 by one person and by two members in November 2019 was incorrect and cannot be upheld.

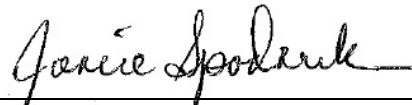
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it reduced Petitioner's October and November 2019 FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN TEN DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Issue supplemental benefits to Petitioner for the month of October 2019 by adding one member to the allotment, and
2. Issue supplemental benefits to Petitioner for the month of November 2019 by adding two members.



JS/ml

Janice Spodarek
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

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Wayne (41) County DHHS – Via
Electronic Mail

BSC1 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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