



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.: 19-012532
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 19, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Valery Cunningham, ES.

ISSUE

Did the Department properly reduce Petitioner's 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 here, Petitioner was a recipient of \$494.00 in FAP benefits per month.
2. On November 1, 2019, Petitioner applied for SER. Pursuant to the SER application, the Department was required to update all programs with regard to the three months prior and updated her income.
3. Due to the update reaching back over a period of time of three months that included an extra week, the algorithm showed an increase in child support income which was not normally budgeted.
4. On November 12, 2019, the Department issued notice that Petitioner's FAP benefits effective December 1, 2019, would decrease from \$494.00 to \$449.00 per month.

5. On November 22, 2019, Petitioner filed a hearing request.

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 income budgeting policy is found in BAM 105, 110, 115, 220; BEM 503, 505, and 550. Corresponding federal regulations are found at 7 CFR 273.9, 273.10, 273.11, 273.12, and 273.3.

The purview of an Administrative Law Judge is to review the Department's action and to make a determination, if the evidence of record supports that action, taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not supported by the evidence and is contrary to law or policy. ALJs do not have any jurisdiction to deviate from law or policy due to individual circumstances.

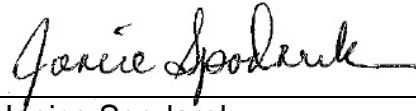
In this case, due to a SER application unrelated to Petitioner's FAP benefits, the Department was required to update Petitioner's FAP budget regarding Petitioner's child support income. Unfortunately for Petitioner, the particular three months reach back period captured an extra week and resulted in Petitioner's FAP eligibility to be reduced by \$45.00 per month. Testimony of Department witness. As the evidence used by the Department supports the action, the undersigned must uphold the action.

Petitioner understands that she can regain her higher benefit by updating her income as soon as the three month reach back period does not capture an extra week.

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 reduced Petitioner's FAP benefits effective December 1, 2019.

DECISION AND ORDER

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



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

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne (57) County DHHS – Via
Electronic Mail

BSC4 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED], MI [REDACTED]