



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: January 31, 2020
MOAHR Docket No.: 19-013354
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 January 23, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Araceli Diaz, Eligibility Specialist, and Jason Page, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 is a recipient of FAP benefits in the amount of \$194.00 per month. Department Exhibit 1, pgs. 11-12.
2. On November 25, 2019, the Department received updated Social Security disability income for Petitioner.
3. On November 25, 2019, the Department Caseworker sent Petitioner a Notice of Case Action, DHS-1605, that effective December 16, 2019, he was denied for the cash program and FAP benefits decreased effective January 1, 2020, to \$31.00 per month due to excess income. Department Exhibit 1, pgs. 3-5.

4. On November 25, 2019, the Department Caseworker sent the Petitioner a Health Care Coverage Determination Notice, DHS-1606, that effective December 1, 2019, he was not eligible for MA due to excess income. Department Exhibit 1, pgs. 6-7.
5. On December 2, 2019, the Department received a hearing request from Petitioner, contesting the Department's negative action.
6. On December 19, 2019, the Department Caseworker made a call to the Social Security Administrative Office to confirm that Petitioner is receiving SSI of \$783.00 per month and will start receiving in January 2020, both SSI and RSDI, with March of 2020 he will begin receiving \$100.00 in SSI and \$703.00 in RSDI. Department Exhibit 1, pg. 10.
7. On December 19, 2019, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS-1605, that effective January 1, 2020, his FAP benefits decreased to \$27.00 per month due to excess income. Department Exhibit 1, pgs. 8-9.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department was informed by the Social Security Administration (SSA) on November 25, 2019, that Petitioner would be receiving RSDI and SSI benefits effective January 1, 2020. The Department was trying to be proactive in issuing benefits, but Petitioner did not receive those SSA benefits in January 2020. His MA benefits were not affected where he is still receiving SSI MA Ad Care. However, his FAP benefits were decreased to \$27.00 from \$194.00. Petitioner is also receiving

Veterans Administration (VA) benefits in the amount of \$1,426.17. The Department will have to redetermine FAP eligibility for January 1, 2020, forward. BAM 105, 110, 130, 210, 220, and 600.

DECISION AND ORDER

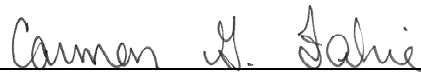
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it decreased Petitioner's FAP benefits to \$27.00 per month due to excess income for January 2020, when he did not receive the income for SSA. Petitioner's MA benefits have continued under SSI MA.

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 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of Petitioner's eligibility for FAP retroactive to January 1, 2020, by determining his actual income from SSA and the VA, and
2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination, and
3. Issue Petitioner any retroactive benefits he may be eligible to receive, if any.

CF/hb



Carmen G. Fahie
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

Renee Olian
322 Stockbridge
Kalamazoo, MI 49001

Kalamazoo County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]