



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: February 18, 2020
MOAHR Docket No.: 20-000405
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 telephone hearing was held on February 13, 2020, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. [REDACTED] appeared as a witness on behalf of Petitioner.

The Department of Health and Human Services (Department) was represented by Valarie Foley, H.F.

ISSUE

Did the Department properly calculate 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, Petitioner has been a FAP recipient.
2. On December 7, 2019, the Respondent issued a Notice of Case Action reducing Petitioner's FAP benefits to \$54.00 per month effective January 1, 2020, due to an increase in Petitioner's RSDI income.
3. Petitioner's medical expenses have changed from month-to-month and effect Petitioner's FAP benefits month-to-month.
4. On [REDACTED] 2020, Petitioner filed a hearing request disputing the December 7, 2019, Notice of Case Action.

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 and procedure to the facts herein are found primarily at BEM 500-505 and 554. Corresponding federal regulations are found at 7 CFR 273. In this case.

Here, unrefuted evidence of record is that Petitioner's RSDI income increased effective January 2020. In addition, previously budgeted medical expenses expired, and Petitioner was no longer eligible for a medical expense deduction in her FAP budget. These factors combined, triggered a lower FAP allotment.

At the administrative hearing, Petitioner also wished to discuss her FAP allotment since August 2019. Unrefuted evidence of record confirms that changes since August 2019 have been triggered by varying amount of medical expenses that have been allowed and then used up. Petitioner did not present any evidence that was contrary to the Department's budgets.


The purview of an Administrative Law Judge is to review the Department's action and to decide 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. As the evidence of record supports the December 7, 2019 Notice of Case Action, the Department's actions must 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 acted in accordance with Department policy when it calculated Petitioner's FAP benefits effective January 1, 2020. Thus, the action must be upheld.

Petitioner understands that when she has medical expenses, she needs to submit verifications and request that the Department prorate the expenses on her FAP budgets.

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

Wayne (District 19) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: February 18, 2020
MOAHR Docket No.: 20-000405
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 telephone hearing was held on February 13, 2020, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. [REDACTED] appeared as a witness on behalf of Petitioner.

The Department of Health and Human Services (Department) was represented by Valarie Foley, H.F.

ISSUE

Did the Department properly calculate 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, Petitioner has been a FAP recipient.
2. On December 7, 2019, the Respondent issued a Notice of Case Action reducing Petitioner's FAP benefits to \$54.00 per month effective January 1, 2020, due to an increase in Petitioner's RSDI income.
3. Petitioner's medical expenses have changed from month-to-month and effect Petitioner's FAP benefits month-to-month.
4. On January 13, 2020, Petitioner filed a hearing request disputing the December 7, 2019, Notice of Case Action.

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 and procedure to the facts herein are found primarily at BEM 500-505 and 554. Corresponding federal regulations are found at 7 CFR 273. In this case.

Here, unrefuted evidence of record is that Petitioner's RSDI income increased effective January 2020. In addition, previously budgeted medical expenses expired, and Petitioner was no longer eligible for a medical expense deduction in her FAP budget. These factors combined, triggered a lower FAP allotment.

At the administrative hearing, Petitioner also wished to discuss her FAP allotment since August 2019. Unrefuted evidence of record confirms that changes since August 2019 have been triggered by varying amount of medical expenses that have been allowed and then used up. Petitioner did not present any evidence that was contrary to the Department's budgets.


The purview of an Administrative Law Judge is to review the Department's action and to decide 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. As the evidence of record supports the December 7, 2019 Notice of Case Action, the Department's actions must 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 acted in accordance with Department policy when it calculated Petitioner's FAP benefits effective January 1, 2020. Thus, the action must be upheld.

Petitioner understands that when she has medical expenses, she needs to submit verifications and request that the Department prorate the expenses on her FAP budgets.

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

Wayne (District 19) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED]



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: February 18, 2020
MOAHR Docket No.: 20-000405
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 telephone hearing was held on February 13, 2020, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. [REDACTED] appeared as a witness on behalf of Petitioner.

The Department of Health and Human Services (Department) was represented by Valarie Foley, H.F.

ISSUE

Did the Department properly calculate 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, Petitioner has been a FAP recipient.
2. On December 7, 2019, the Respondent issued a Notice of Case Action reducing Petitioner's FAP benefits to \$54.00 per month effective January 1, 2020, due to an increase in Petitioner's RSDI income.
3. Petitioner's medical expenses have changed from month-to-month and effect Petitioner's FAP benefits month-to-month.
4. On January 13, 2020, Petitioner filed a hearing request disputing the December 7, 2019, Notice of Case Action.

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 and procedure to the facts herein are found primarily at BEM 500-505 and 554. Corresponding federal regulations are found at 7 CFR 273. In this case.

Here, unrefuted evidence of record is that Petitioner's RSDI income increased effective January 2020. In addition, previously budgeted medical expenses expired, and Petitioner was no longer eligible for a medical expense deduction in her FAP budget. These factors combined, triggered a lower FAP allotment.

At the administrative hearing, Petitioner also wished to discuss her FAP allotment since August 2019. Unrefuted evidence of record confirms that changes since August 2019 have been triggered by varying amount of medical expenses that have been allowed and then used up. Petitioner did not present any evidence that was contrary to the Department's budgets.


The purview of an Administrative Law Judge is to review the Department's action and to decide 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. As the evidence of record supports the December 7, 2019 Notice of Case Action, the Department's actions must 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 acted in accordance with Department policy when it calculated Petitioner's FAP benefits effective January 1, 2020. Thus, the action must be upheld.

Petitioner understands that when she has medical expenses, she needs to submit verifications and request that the Department prorate the expenses on her FAP budgets.

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

Wayne (District 19) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED]