



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], MI [REDACTED]

Date Mailed: February 28, 2020
MOAHR Docket No.: 20-000617
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 27, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Jessica Kirchmeir, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 43-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit when the Department determined that Petitioner was eligible for a \$16.00 monthly FAP benefit effective December 1, 2019?

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 applied for FAP benefits.
2. On November 21, 2019, the Department interviewed Petitioner to obtain information to determine her eligibility for FAP benefits.

3. Petitioner has a household size of one. Petitioner receives \$ [REDACTED] per month from social security. Petitioner pays \$271.00 for rent. Petitioner is responsible for paying for her own cooling utility.
4. Based on Petitioner's household size and countable household income, the Department determined that Petitioner was eligible for a FAP benefit of \$16.00 per month.
5. The Department used the electricity standard deduction when it determined Petitioner's FAP benefit amount.
6. On November 21, 2019, the Department mailed a notice of case action to Petitioner to notify her that she was eligible for a FAP benefit of \$16.00 per month effective December 1, 2019. The notice included a budget, which showed that the Department determined Petitioner's FAP benefit amount by using the electricity standard deduction.
7. On January 22, 2020, Petitioner requested a hearing to dispute her FAP benefit amount.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

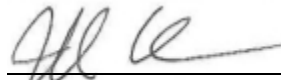
The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (July 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (October 1, 2019), BEM 556 (July 1, 2019), RFT 255 (October 1, 2019), and RFT 260 (October 1, 2019). In this case, the Department did not properly determine Petitioner's FAP benefit amount because the Department did not give Petitioner credit for the heating/cooling standard deduction when she was eligible for it. Petitioner was eligible for the heating/cooling standard deduction because she was responsible for paying for her own electricity, which included her electric air conditioning. BEM 554 (October 1, 2019), p. 16-17. The heating/cooling standard is greater than the electricity standard that the Department gave Petitioner credit for, and the greater standard increased Petitioner's excess shelter deduction. The increased excess shelter deduction reduced Petitioner's net income and increased the FAP benefit she was eligible for.

Since the Department did not properly determine Petitioner's FAP benefit amount, the Department's decision is reversed. The Department must redetermine Petitioner's FAP benefit amount using the heating/cooling standard deduction. The Department then must send a new notice to Petitioner to notify her of her FAP benefit amount using the heating/cooling standard deduction.

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 did not act in accordance with its policies and the applicable law when the Department determined that Petitioner was eligible for a \$16.00 monthly FAP benefit effective December 1, 2019.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.



JK/ml

Jeffrey Kemm
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

Eaton County DHHS – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

 – Via First Class Mail
 MI 