



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: May 15, 2020
MOAHR Docket No.: 20-001342
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's hearing request, 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 May 14, 2020. Petitioner, [REDACTED], appeared with her spouse, [REDACTED]. Respondent, Department of Health and Human Services (Department), had Elizabeth Davis, Eligibility Specialist, and Gloria Thompson, Supervisor, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 22-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly act on Petitioner's change report when Petitioner reported a change in employment on January 16, 2020, and the Department processed the change to cause an increase in FAP benefits effective March 1, 2020?

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 FAP benefit recipient.
2. Petitioner's spouse, [REDACTED], was working at [REDACTED].
3. The Department calculated Petitioner's monthly FAP benefit amount based on Petitioner's household income, which included income from her spouse's employment at [REDACTED].

4. On November 18, 2019, Petitioner's spouse worked his last day at [REDACTED]
5. Petitioner's spouse was under the impression that his employment would continue because the business was sold, and he thought the new owner was going to put him back to work.
6. Petitioner's spouse subsequently realized that his employment was not going to continue.
7. On December 27, 2019, Petitioner's spouse attempted to contact the Department.
8. On January 6, 2020, Petitioner and her spouse attempted to contact the Department regarding medical assistance.
9. On January 16, 2020, Petitioner's spouse spoke with the Department and reported his loss of employment. He also reported that he was earning income from self-employment. The Department instructed Petitioner's spouse to provide verification of his loss of employment and his income from self-employment.
10. On January 22, 2020, the Department mailed a verification of employment form to Petitioner's spouse's former employer, [REDACTED], with instructions to provide verification of Petitioner's spouse's employment by February 3, 2020. The Department also mailed a verification of self-employment to Petitioner with instructions to provide verification of Petitioner's self-employment income.
11. On January 28, 2020, Petitioner provided the Department with an exit survey from [REDACTED] to verify his loss of employment.
12. The Department processed Petitioner's verified loss of employment income and recalculated Petitioner's FAP benefit amount.
13. On February 3, 2020, the Department mailed a notice of case action to Petitioner to notify her that her monthly FAP benefit was increased to \$646.00, effective March 1, 2020.
14. On February 7, 2020, Petitioner requested a hearing to dispute the effective date of the FAP benefit increase.

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.

In this case, the Department processed a reported change in employment and increased Petitioner's FAP benefits effective March 1, 2020. Petitioner is disputing the effective date of the increase. Petitioner asserts that since the change in employment occurred in November 2019, Petitioner's increase should have been effective December 1, 2019.

A client has the responsibility to report changes to the Department within 10 days of the date of the change. BAM 105 (October 1, 2019), p. 12. When a change is reported that causes an increase in benefits, the Department must act on the change within 10 days, provided that the client provides any necessary verification by the due date. BAM 220 (April 1, 2019), p. 7.

In this case, Petitioner had a loss of income from employment in November 2019, and Petitioner did not report it to the Department within 10 days. Petitioner first reported it to the Department on January 16, 2020, and Petitioner provided timely verification of the change on January 28, 2020. The Department then acted on Petitioner's reported change on February 3, 2020, when it increased Petitioner's FAP benefits effective March 1, 2020.

Petitioner presented sufficient evidence to establish that the Department did not act appropriately because the Department did not act on Petitioner's reported change within 10 days of the date the change was first reported to the Department on January 16, 2020. Pursuant to policy, although verification was deemed necessary, the Department was still required to make the change effective the first benefit month that was 10 days after the change was first reported. *Id.* at 7-8. Thus, the Department was required to make the change effective February 1, 2020, because February was the first benefit month that was 10 days after the change was reported on January 16, 2020. Since the Department did not make the change effective until March 1, 2020, the Department did not act appropriately.

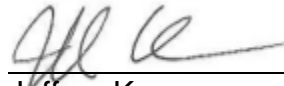
For these reasons, the Department's decision is reversed.

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 processed Petitioner's change report to cause an increase in FAP benefits effective March 1, 2020.

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

Wayne (District 17) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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