



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 21, 2020
MOAHR Docket No.: 20-001595
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. Due to COVID 19, this two-way telephone conference was adjourned. After due notice, a three-way telephone conference hearing was rescheduled for May 20, 2020, and held on the same date.

Petitioner appeared by conference phone unrepresented.

The Department of Health and Human Services (Department) was represented by April Nemeck, Hearings Facilitator.

Department Exhibit A.57 was offered and admitted into the record.

ISSUE

Did the Department properly reduce Petitioner's FAP benefits, and then properly propose to close Petitioner's FAP case?

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 and her three children were part of the same FAP group.
2. On December 4, 2019, the Department issued redetermination paperwork for Petitioner for her FAP case.

3. In December 2019, when Petitioner's older son turned 19, the Department included Petitioner's son's income in the group FAP budget.
4. On December 4, 2020, the Department issued a notice of Case Action that Petitioner's FAP benefit was reduced to \$11.00 per month. Subsequently, the Department determined that due to an overissuance, the \$11.00 was taken for recoupment. Exhibit a.33.
5. On February 5, 2020, the Department removed a previously FAP expense allocation of renter's insurance not permitted by policy, resulting in a case closure of the FAP case due to excess income. Exhibit A.51.
6. On February 12, 2020, Petitioner filed a hearing request arguing that it was not fair that her 19-year-old son's income was counted in the FAP budget. Petitioner does not dispute a subsequent allotment due to COVID 19 of \$1,292.00 in FAP benefits for April and May 2020.

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.

Specific policy and procedure to the issues herein are found primarily at BEM 210, 501, 550, 554, and 556. Corresponding federal regulations are found at 7 CFR 273.9, 273.10(c), 273.11; 273.1; and 273.18.

In this case, there were two negative actions at issue. The first is the February 12, 2020, reduction in Petitioner's FAP case at redetermination and the taking of the reallocation of the \$11.00 for a prior recoupment. Here, Petitioner does not dispute the budget expenses or the recoupment. Rather, Petitioner argued that she feels that it is not fair that her son's income is being counted in the FAP group.

The Department responded that pursuant to FAP group composition, BEM 212, and corresponding income policy found at BEN 501, both State policy, State law, and federal law require the State of Michigan to count the income of all mandatory members

of the FAP group. While such may not seem fair, fairness is not an exception to the policy and procedure in FAP group composition and income used in the FAP budget.

The second issue deals with the removal of a rental insurance expense on the FAP budget. The Department testified that policy does not allow the expense previously budgeted incorrectly and as such, the expense was removed. Petitioner did not dispute or offer any authority that would entitle her to have this expense allowed in her FAP budget.

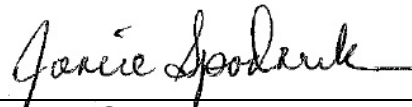
It is noted that Petitioner did not otherwise dispute the other calculations used in the FAP budgets as to both negative actions herein.

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 to \$11.00 a month, when it allocated the \$11.00 for recoupment, and when it proposed to close Petitioner's FAP allotment due to excess income.

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

Genesee (Union St.) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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