



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: June 4, 2020  
MOAHR Docket No.: 20-002506  
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 June 4, 2020. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Melissa Stanley, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 61-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUES**

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefit amount to \$107.00 per month, effective February 1, 2020?

Did the Department properly determine that Petitioner was eligible for a \$123.71 State Emergency Relief (SER) payment, if Petitioner paid \$253.72 towards her non-heat electricity utility and her heating utility?

### **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 has a household size of two, Petitioner and her spouse.
2. Petitioner has a monthly housing expense of \$739.00, and Petitioner is also responsible for paying for heating/cooling utilities.
3. Petitioner has a monthly medical expense of \$102.00.

4. Petitioner is a FAP benefit recipient. Petitioner's spouse is disqualified from FAP because he has two or more drug-related felony convictions.
5. The Department received notice from the Social Security Administration that Petitioner received a cost of living adjustment in January 2020. Petitioner's monthly social security benefit increased from \$1,272.00 to \$1,293.00.
6. The Department updated Petitioner's income in her case file, and the update caused Petitioner's maximum FAP benefit amount to be reduced to \$107.00 per month.
7. On December 19, 2019, the Department mailed a notice of case action to Petitioner to notify her that her FAP benefit amount was going to be reduced to \$107.00 per month, effective February 1, 2020.
8. Petitioner applied for SER to get assistance with her non-heat electricity utility and her heating utility.
9. Petitioner owed \$377.43 (plus late fees) at the time of her application.
10. The Department reviewed Petitioner's application, along with her utility bills and her utility payments for the six preceding months.
11. The Department determined that Petitioner failed, without good cause, to make required payments towards her utilities; the Department determined that Petitioner was required to make minimum payments of \$82.00 per month towards her non-heat electricity utility and her heating utility, and the Department determined that she only paid \$244.86 during the six months preceding her application for SER. The Department determined that Petitioner's shortfall was \$253.72.
12. On February 25, 2020, the Department mailed a SER decision to Petitioner to notify her that she was approved for a \$123.71 SER payment if she paid \$253.72 towards her non-heat electricity utility and her heating utility.
13. Petitioner paid \$253.72 as required, and the Department paid the \$123.71 she was approved for.
14. On March 11, 2020, Petitioner requested a hearing to dispute her FAP benefits and SER.

### **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).

## **FOOD ASSISTANCE**

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, 2020), BEM 550 (January 1, 2017), BEM 554 (January 1, 2020), BEM 556 (January 1, 2020), RFT 255 (January 1, 2020), and RFT 260 (October 1, 2019). Based on Petitioner's group size of one, Petitioner's household income of \$1,293.00 per month, Petitioner's housing expenses of \$739.00 per month, and Petitioner's medical expenses of \$102.00 per month, the maximum FAP benefit Petitioner was eligible for was \$107.00 per month. Thus, the Department properly determined Petitioner's FAP benefit amount in accordance with its policies and the applicable law.

In general, when household income increases, the maximum FAP benefit the household is eligible for decreases. In this case, Petitioner's household income increased due to an increase in her social security benefit, and that increase in income caused her maximum FAP benefit to decrease.

## **STATE EMERGENCY RELIEF**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

When an individual applies for SER assistance, the Department must determine the individual's eligibility by completing a budget. ERM 103 (March 1, 2019), p. 3. The budgeting process includes a determination of whether the individual has made required payments. ERM 208 (December 1, 2019), p. 4. Required payments are determined based on the group size, income, and obligation to pay for services for the six months preceding the application. *Id.* When the individual has failed without good cause to make required payments, a shortfall is determined. *Id.* The individual must pay the shortfall amount towards the emergency before the Department will assist. *Id.*

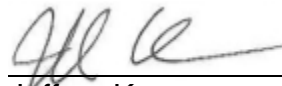
In this case the Department determined that Petitioner had a shortfall of \$253.72 because she failed without good cause to make required payments. Petitioner did not present any evidence to establish that she did not have a shortfall or that the Department did not properly determine her shortfall amount. Thus, I must find that the Department acted properly when it determined Petitioner's shortfall.

**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 (a) the Department properly reduced Petitioner's FAP benefit amount to \$107.00 per month, effective February 1, 2020, and (b) the Department properly determined that Petitioner was eligible for a \$123.71 State Emergency Relief (SER) payment if Petitioner paid \$253.72 towards her non-heat electricity utility and her heating utility.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/ml



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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**

Saginaw County DHHS – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail

[REDACTED]  
[REDACTED] MI [REDACTED]