



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: July 27, 2020
MOAHR Docket No.: 20-003943
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 July 23, 2020. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Rupal Patel, Family Independence Specialist, and Candace Baker, Family Independence Manager, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 30-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective May 31, 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 has a household size of seven.
2. In January 2020, Petitioner's rent increased from \$1,400.00 per month to \$1,540.00 per month.
3. In March 2020, Petitioner reported her increase in rent to the Department.

4. In May 2020, Petitioner received \$905.00 from the Department for Family Independence Program (FIP) cash assistance. Thereafter, the Department found Petitioner ineligible for cash assistance.
5. In May 2020, Petitioner was receiving unemployment. Petitioner's unemployment consisted of a weekly benefit of \$362.00 plus a weekly pandemic benefit of \$600.00. Petitioner received her unemployment biweekly.
6. The Department reviewed Petitioner's case and determined that Petitioner was ineligible for FAP benefits because her household income exceeded the Department's limit.
7. On May 7, 2020, the Department mailed a notice of case action to Petitioner to notify Petitioner that she was ineligible for FAP benefits beginning June 1, 2020.
8. On May 14, 2020, Petitioner requested a hearing to dispute the Department's decision.

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 determined that Petitioner's household income exceeded the Department's limit to receive FAP, and the Department closed Petitioner's FAP benefits effective May 31, 2020. In making its determination, the Department budgeted Petitioner's rent at \$1,400.00, and the Department budgeted income of [REDACTED] for cash assistance. Petitioner disagrees with the Department's decision to close her FAP benefits, and Petitioner asserts that the Department budgeted the incorrect amounts when it made its determination.

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 (July 1, 2020), RFT 255 (January 1, 2020), and RFT 260 (October 1, 2019).

Petitioner presented sufficient evidence to establish that the Department budgeted the incorrect amounts for her rent expense and income when it determined that she was no

longer eligible for FAP. However, even when Petitioner's rent is increased to \$1,540.00 per month and her income is decreased to \$ [REDACTED] per month, Petitioner is still ineligible for FAP benefits because her household income is too much. RFT 250 (October 1, 2019).

Although the Department did not budget the correct income and expenses when it determined Petitioner's FAP eligibility, the Department correctly determined that Petitioner was ineligible due to income.

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 act in accordance with its policies and the applicable law when it closed Petitioner's FAP benefits effective May 31, 2020.

IT IS ORDERED that the Department's decision is AFFIRMED.

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

Courtney Jenkins – Via Electronic Mail

Washtenaw County DHHS – Via
Electronic Mail

BSC4 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED]
MI [REDACTED]