



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: August 20, 2020
MOAHR Docket No.: 20-004871
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On July 13, 2020, Petitioner, [REDACTED] requested a hearing to dispute a Notice of Case Action that was mailed to her on June 25, 2020. 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 August 19, 2020. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Amber Gibson, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 17-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 amount?

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 has a household size of one.
3. Petitioner's household income consists of [REDACTED] per month from RSDI and [REDACTED] per month from SSI.
4. Petitioner also receives an annual payment from a retirement account, which was [REDACTED] in the most recent year.

5. Petitioner pays approximately \$192.08 per month for condo dues, and Petitioner is responsible for paying for her own heating/cooling utilities.
6. On June 25, 2020, the Department mailed a Notice of Case Action to Petitioner to notify her that she was eligible for a FAP benefit of \$48.00 for March 5, 2020, through March 31, 2020, and then \$49.00 per month thereafter.
7. On [REDACTED], 2020, Petitioner requested a hearing to dispute her FAP benefit amount.
8. Petitioner has received the maximum FAP benefit for a household of one since March 2020 due to the pandemic.

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, 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).

Petitioner's monthly household income was calculated based on the sum of Petitioner's RSDI of [REDACTED], SSI of [REDACTED], and retirement of [REDACTED]. Petitioner disputed that her SSI is [REDACTED] but Petitioner did not present sufficient evidence to establish that her SSI was different from [REDACTED] at the time that the Department determined her FAP benefit. Petitioner also disputed her retirement income; Petitioner asserted that she only receives one retirement payment per year and the Department budgeted it monthly. The Department properly budgeted Petitioner's retirement as monthly income because, although it is a single payment, it is intended to cover the entire year. BEM 505 (October 1, 2017), p. 9. For these reasons, the Department properly determined that Petitioner's monthly household income was [REDACTED].

Petitioner presented sufficient evidence to establish that the Department did not properly determine her FAP benefit amount. The Department overstated Petitioner's income by [REDACTED], which caused Petitioner's FAP benefit to be \$3.00 per month less than what she was eligible for. Based on Petitioner's group size of one, Petitioner's

household income of [REDACTED] per month, and Petitioner's housing expense of \$192.08 per month, the maximum FAP benefit Petitioner was eligible for was \$52.00 per month. However, Petitioner has not been adversely affected because she has received the maximum FAP benefit amount for each month due to the pandemic.


Although Petitioner has not been adversely affected, the Department's decision is reversed so the Department can recalculate the FAP benefit that Petitioner is eligible for (absent the extra amount due to the pandemic). The Department shall recalculate Petitioner's FAP benefit amount consistent with this decision and then notify Petitioner of her recalculated FAP benefit amount.

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 Petitioner's Food Assistance Program (FAP) benefit amount.

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

Amber Gibson
Ingham County DHHS – via electronic
mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail

[REDACTED]
MI [REDACTED]