



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: September 25, 2020
MOAHR Docket No.: 20-005367
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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. After due notice, a telephone hearing was held on September 17, 2020. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department), was represented by Brad Reno, Eligibility Specialist (ES) and Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-45.

ISSUE

Did the Department properly determine Petitioner's Eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2020, Petitioner applied for FAP. (Exhibit A, pp. 11-15)
2. Petitioner's application met criteria for expedited processing and FAP was approved for July 6-31, 2020, in the amount of \$162.00. (Exhibit A, pp. 3 and 25-29)
3. On July 7, 2020, a Verification Checklist was issued requesting proof of home rent, RSDI income, and residential address with a due date of July 17, 2020. (Exhibit A, pp. 22-24)

4. On July 13, 2020, the Department received the requested proof of RSDI income. The Department initially asserted that they did not receive the requested proof of shelter expense. The Department has acknowledged that they received documentation of the rent expense. (Exhibit A, pp. 3 and 30; ES Testimony)
5. On July 27, 2020, a Notice of Case Action was issued to Petitioner stating FAP was approved for August 1, 2020, through June 30, 2022, with a monthly allotment of \$16.00. (Exhibit A, pp. 32-36)
6. On August 12, 2020, Petitioner requested a hearing contesting the Department's actions. (Exhibit A, pp. 7-10)

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.

BAM 115 addresses application processing, including the FAP begin date at application:

Begin Date At Application

The FAP begin date depends on the group's eligibility and whether the 30-day standard of promptness (SOP) has been met; see Sub-sequent Processing in this item. Use the following criteria:

- When the 30-day SOP is met, or it is not met but the group is not at fault for the delay, the begin date is either of the following:
 - The application date if the group is eligible for the application month (even if proration causes zero benefits).
 - The first day of the month after the application month if that is when the group becomes eligible.

- When the 30-day SOP is not met and the group is at fault for the delay, the begin date is the date the group meets all application requirements; see FAP Fault Determination in this item.

Exception: See BEM 610 to determine the begin date for migrant/seasonal farmworkers.

BAM 115, July 1, 2020, pp. 29-30

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits. BEM 503, July 1, 2020, pp. 29-31 and 35-37. The Department counts the gross amount of current SSA-issued RDSI as unearned income. BEM 503, p. 29.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (July 1, 2020), p. 13. Heat and utility expenses can also be included as allowed by policy. BEM 554, pp. 15-24. Verified allowable medical expenses for a senior/disabled/disabled veteran (SDV) in the FAP group are also considered. BEM 554, pp. 8-12.

In this case, the Department properly determined Petitioner's eligibility for FAP as of the [REDACTED] 2020 application date. (Exhibit A, pp. 11-15 and 25-29)

Verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, April 1, 2017, pp. 1-3.

For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. A negative action notice is to be sent when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. If the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. BAM 130, p. 7.

The Department requested verification of Petitioner's rent, RSDI income, and residential address with a due date of July 17, 2020. (Exhibit A, pp. 22-24) On July 13, 2020, the Department received the requested proof of RSDI income. The Hearing Summary indicated the Department did not receive the requested proof of shelter expense.

(Exhibit A, pp. 3 and 30; ES Testimony) It appeared that the Department properly removed the rent expense from the FAP budget as of August 1, 2020, because Petitioner did not return the requested verification of his shelter expense. (Exhibit A, pp. 3 and 30; ES Testimony) However, the ES testified that electronic case record shows that Petitioner did provide documentation of rent at a hotel on July 13, 2020. (ES Testimony) This supports Petitioner's testimony that he made a reasonable attempt to provide timely verification of his rent expense. (Petitioner Testimony)

However, overall the evidence indicates portions of the FAP budgets were not accurate. Verification of the RSDI income of \$973.00 was submitted and this is the amount that was utilized in both FAP budgets. (Exhibit A, pp. 26, 30, 33, and 38-43) The FAP application listed total housing expense of \$1,120.00, a rent amount of \$280.00 per week, and no phone or other utility expenses. (Exhibit A, p. 11 and 15) However, the initial FAP budget included a shelter expense of \$1,204.00. (Exhibit A, pp. and 40) Additionally, the FAP budget for August 1, 2020 and ongoing included a telephone standard of \$30.00. (Exhibit A, pp. 33 and 43) It is unclear what the housing expense in the first budget and the telephone standard utilized in second budget were based on. Further, Petitioner made a reasonable attempt to provide timely verification of his rent expense, but no rent expense was included in the second budget. Petitioner also indicated a medical expense on the FAP application. (Exhibit A, p. 15) However, no medical expense was included in the FAP budgets and there is no evidence that verification of medical expenses was requested. (Exhibit A, pp. 26, 33, and 38-43) Lastly, Petitioner's hearing request indicates additional sources of income that were not reported on his FAP application, including unemployment compensation benefits and cash from friends. (Exhibit A, pp. 8-10) Overall, the evidence indicates that Petitioner's eligibility for FAP should be re-determined, which may include requesting additional verifications if they are still needed.

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 Department policy when it determined Petitioner's eligibility for FAP.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's eligibility for FAP retroactive to the [REDACTED] 2020, application date in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.

3. Supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.

CL/ml



Colleen Lack
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

Tamara Morris
Genesee (Union St.) 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]