



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: October 23, 2020
MOAHR Docket No.: 20-006070
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 October 21, 2020. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department), was represented by Elizabeth Burgett, Eligibility Specialist (ES).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-14.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

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 was an ongoing recipient of FAP through the Michigan Combined Application Project (MiCAP). (Exhibit A, pp. 6-7 and 14)
2. On Petitioner's [REDACTED] 2017, MiCAP application, it was reported that Petitioner has a shelter expense of \$335.00 per month and they pay heat separately from the shelter expense. (Exhibit A, p. 6)
3. Effective October 1, 2020, there were reductions to the FAP benefit amounts through the MiCAP program as directed by USDA Food and Nutrition Services (FNS). (Exhibit A, p. 1)

4. On September 12, 2020, a Notice of Case Action was issued stating Petitioner's FAP benefits would decrease to \$40.00 per month effective October 1, 2020, because FAP benefits are determined based on the shelter expense. If the reported housing costs are below \$525.00, the benefit amount is \$40.00. (Exhibit A, pp. 9-13)
5. On September 18, 2020, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-4)
6. The Department subsequently determined that only Petitioner's shelter expense had been budgeted rather than the shelter expense plus the utility expenses added together. (Exhibit A, p. 14)
7. The Department determined that Petitioner is eligible for \$185.00 per month in FAP benefits through the MiCAP program. (Exhibit A, p. 14)

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.

BEM 618 addresses MiCAP. In part, this policy states:

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows Michigan Department of Health and Human Services (MDHHS) to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program.

Benefit Amount

The amount of Food Assistance Program (FAP) benefits MiCAP individuals receive is determined by their total shelter

expenses, (shelter plus heat and utility expenses). If an individual's total shelter expenses are:

- Below \$525, the FAP benefit is \$40 per month.
- Between \$525 and \$749 the FAP benefit is \$105 per month.
- Equal to or exceed \$750, the FAP benefit amount is \$185 per month.

BEM 618, October 1, 2020, pp. 1 and 3.

Effective October 1, 2020, there were reductions to the FAP benefit amounts through the MiCAP program as directed by USDA Food and Nutrition Services (FNS). (Exhibit A, p. 1)

On September 12, 2020, a Notice of Case Action was issued stating Petitioner's FAP benefits would decrease to \$40.00 per month effective October 1, 2020, because FAP benefits are determined based on the shelter expense. If the reported housing costs are below \$525.00, the benefit amount is \$40.00. (Exhibit A, pp. 9-13)

However, the Department subsequently determined that only Petitioner's shelter expense had been budgeted rather than the shelter expense plus the utility expenses added together. (Exhibit A, p. 14) On Petitioner's ██████████ 2017, MiCAP application, it was reported that Petitioner has a shelter expense of \$335.00 per month and they pay heat separately from the shelter expense. (Exhibit A, p. 6) Accordingly, Petitioner's shelter expense of \$335.00 added to the heat and utility standard of \$547.00 equals a total shelter expense of \$882.00. (Exhibit A, p. 14) Accordingly, the Department determined that Petitioner is eligible for \$185.00 per month in FAP benefits through the MiCAP program. However, the correction could not be made in the Department's computer system until this hearing is resolved. (Exhibit A, p. 14) Petitioner was in agreement with the \$185.00 per month benefit determination. (Petitioner Testimony)

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 proposed reducing Petitioner's FAP benefit amount to \$40.00.

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. Implement the correction to Petitioner's FAP benefit case retroactive to the October 1, 2020, effective date.

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

Nicolette Vanhavel
DHS MI-CAP SSPC – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail
[REDACTED] MI [REDACTED]