



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
49203

Date Mailed: November 5, 2020
MOAHR Docket No.: 20-006408
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 November 4, 2020.

Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Christina Warner, ES Worker.

Department Exhibit A.20 was offered and admitted into the record.

ISSUE

Did the Department properly issue a September 30, 2020, Notice reducing Petitioner's 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. At all relevant times prior to the negative action herein, Petitioner has been a FAP beneficiary.
2. On September 30, 2020, the Department issued a Notice of Case Action that Petitioner's FAP benefits will be reduced to \$40.00 per month effective November 2, 2020, without explaining the reason for the reduction.
3. On October 12, 2020, Petitioner filed a hearing requesting disputing the reduction.
4. On October 13, 2020, the Department filed a Hearing Summary stating that the Department erred in reducing the benefits due to a 'systems error' and that a ticket

filed with the help desk to resolve the error instructed the local office to close out Petitioner's old case under a MiCap classification and assign Petitioner a new case number effective December 1, 2020, so that the systems error will not retrigger.

5. As of the date of the administrative hearing, Petitioner had no verification that the correction has been made.

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.

In this case, the Department stipulated that the computer erred due to a 'systems error' that had Petitioner classified under a prior MiCap recipient classification, triggering a lower FAP allotment. The county office was unable to correct the error, and the help desk response for a fix was to assign a new case number effective December 1, 2020. For November 2020, Petitioner's allotment was increased back to the \$100.00 level. However, to date, Petitioner continues to be classified as MiCap recipient, which she is not. Thus, Petitioner requested to go forward with the administrative and have a ruling in her favor to ensure compliance by the Department in the future, should the Department's 'future promised action' not occur.

Thus, the Department's September 30, 2020 action is reversed, as it is not in compliance with the Department's policy and procedure by its own admission.

It is noted that Petitioner needs to submit proper self-income verification(s) in order for her case to reprocess effective December 1, 2020, at the \$100.00 benefit level. These verifications are not at issue and not reviewed herein.

Thus, it is the finding of this Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, that the Department did not act in accordance with Department policy when it issued the September 30, 2020, Notice of Case Action reducing Petitioner's FAP benefits to \$40.00 per month.

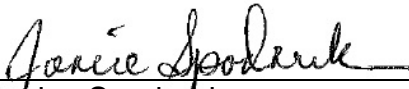
DECISION AND ORDER

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. Restore Petitioner's FAP allotment to \$100.00 per month effective November 1, 2020, if not already done, and
2. Make whatever corrections the Department stipulated were required to maintain Petitioner's allotment by removing the MiCap classification of Petitioner's case, if not already done, and
3. Issue any supplemental benefits Petitioner may have lost due the error of a reduction in Petitioner's case if necessary, if not already done.

JS/ml



Janice Spodarek
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 Little
Jackson County DHHS – via electronic
mail

BSC4 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]