



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: December 4, 2020
MOAHR Docket No.: 20-006467
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 5, 2020.

Petitioner was represented by [REDACTED].

The Michigan Department of Health and Human Services (Department) was represented by Ricarla Carter, APW.

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

ISSUE

Did the Department properly reduce Petitioner's MICAP 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. Unrefuted evidence is that at all relevant times to the issue herein, Petitioner's rent has been \$500.00.
2. On September 12, 2020, the Department issued a Notice of Case Action reducing Petitioner's FAP benefits under the MICAP program to \$40.00 effective October 1, 2020.
3. On January 13, 2020, Petitioner filed a hearing request.

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.

The primary MDHHS policy is found at BEM 613. Applicable federal authority is cited in that policy as Food and Nutrition Act of 2008, as amended; 7 USC 2026.

Individuals who are asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence standard.

Policy specific to the facts herein regarding the MICAP program states in part:

FAP

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.

The program is administered by the centrally located MICAP unit. Final eligibility determination and redeterminations are the responsibility of the MICAP unit.

All eligibility factors in this item must be met.

MICAP Targeted Population

The targeted MICAP population is SSI individuals with the following characteristics:

- Age 18 or older.
- Receives SSI income and no other type of income.

- Meets the Social Security Administrations (SSA) definition of independent living (Living arrangement code A). BEM 618, Page 1.
- Resides in Michigan.
- Purchases and prepares food separately. BEM 618, Page 1.

Effective October 1, 2020, the MICAP program monthly benefit amount changed to a three-tiered benefit amount. Welfare recipients whose shelter is below \$525 are eligible for \$40 per month. BEM 618.

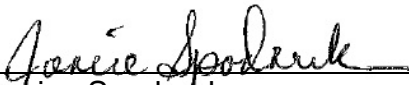
This policy change was triggered by an FNS change. See BPB 2020-WRK031, Three-Tier MICAP Payments.

Individuals do not have a right to an administrative hearing for across the board benefit changes enacted by the federal government. Regardless of Petitioner's right to an administrative hearing, Petitioner does not dispute that her shelter costs are below \$525.00 per month and, does not dispute any of the evidence of record. As such, Petitioner has not met her burden of proof and thus, the Department's actions must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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

Nicolette Vanhavel
DHS MI-CAP SSPC – via electronic mail

Authorized Hearing Rep.

██████████ – via first class mail
██████████
██████████ MI ██████████

Petitioner

██████████ – via first class mail
██████████
██████████, MI ██████████