



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: February 18, 2021
MOAHR Docket No.: 20-006865
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 January 27, 2021. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-38.

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. Petitioner is an ongoing recipient of FAP benefits.
2. On September 14, 2020, the Hearing Facilitator received additional documentation of Petitioner's medical and utility expenses. (Exhibit A, pp. 1 and 5-29; Hearing Facilitator Testimony)
3. The additional medical expenses were added to Petitioner's FAP budget for October 2020. (Exhibit A, pp. 1 and 26-28 and 30-32; Hearing Facilitator Testimony)

4. On September 30, 2020, a Notice of Case Action was issued to Petitioner stating FAP increased to \$[REDACTED] for the month of October 2020. (Exhibit A, pp. 33-37)
5. On October 21, 2020, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 3-4)

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

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (August 1, 2020), pp. 13-14. Heat and utility expenses can also be included as allowed by policy. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses; for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, pp. 15-20. Verified allowable medical expenses for a senior/disabled/disabled veteran (SDV) in the FAP group are also considered. FAP groups with a 24-month benefit period can budget. BEM 554, pp. 8-12.

Effective October 1, 2020, the maximum FAP issuance amount for a group size of one was \$204.00. RFT 260, October 1, 2020.

On September 14, 2020, the Hearing Facilitator received additional documentation of Petitioner's medical and utility expenses. (Exhibit A, pp. 1 and 5-29; Hearing Facilitator Testimony)

The additional medical expenses not previously reported were added to Petitioner's FAP budget for October 2020. (Exhibit A, pp. 1 and 26-28 and 30-32; Hearing Facilitator Testimony) On September 30, 2020, a Notice of Case Action was issued to Petitioner stating FAP increased to \$[REDACTED] for the month of October 2020. (Exhibit A, pp. 33-37)

The Hearing Facilitator noted that Petitioner has continued to receive the maximum FAP issuance amount for a group size of one. Due to COVID-19, supplemental FAP benefits are being issued for some months to households currently receiving FAP benefits to bring the case to the maximum monthly amount for the group size. A Memorandum from the Economic Stability Administration (ESA) indicates the approval was initially for two months, March 2020 and April 2020. Subsequently, approvals were made on a month-by-month basis and Michigan was approved to issue the additional benefits for each additional month thus far. The Memorandum is clear that this is a supplemental emergency allotment, which does not change the eligibility determination. ESA 2020-15, as updated September 8, 2020. The Benefit Summary Inquiry shows that supplements were issued bringing Petitioner to the maximum monthly issuance amount for her group size, which increased to \$[REDACTED] effective October 1, 2020. (Exhibit A, p. 38)

Petitioner testified that she had not been aware of the need to provide her medical expenses to the Department each month. (Petitioner Testimony) The Hearing Facilitator went over how medical expenses could be submitted. (Hearing Facilitator Testimony)

Petitioner's hearing request also noted that she did not receive a cash assistance payment this year to help with her heat bill. (Exhibit A, p. 4) The Hearing Facilitator explained that under prior policy in 2019, the Department issued a \$20.01 LIHEAP payment. However, that policy changed, and the Department is no longer issuing the \$20.01 LIHEAP payments. (Hearing Facilitator Testimony) Petitioner testified that she was not notified of this policy change. (Petitioner Testimony) As discussed, Department policies often change, and the Department does not issue a written notice of each policy change to each benefit applicant/recipient.

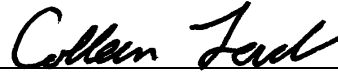
The October 2020 budget was reviewed with Petitioner. Petitioner did not indicate any disagreement with the income or expense amounts included in this budget. (Exhibit A, pp. 30-32; Hearing Facilitator and Petitioner Testimony)

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 acted in accordance with Department policy when it determined Petitioner's eligibility for FAP.

DECISION AND ORDER

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

CL/ml



Colleen Lack
Administrative Law Judge
for Elizabeth Hertel, 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

██████████ – via first class mail

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