



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: February 4, 2021
MOAHR Docket No.: 20-007410
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 26, 2021. Petitioner represented herself. The Department was represented by Angela Gaddis.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits in the month that she filed her application for assistance?

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, the Department received Petitioner's application for Food Assistance Program (FAP) benefits.
2. On November 18, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits with a \$0 monthly allotment for October of 2020, a \$215 monthly allotment for November of 2020, and a \$179 monthly allotment for December of 2020. Exhibit A, pp 7-10.
3. Petitioner received a Food Assistance Program (FAP) supplement in November and December of 2020 so that she received the maximum allotment of benefits for a household of two.
4. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

The Department will prorate FAP benefits for the month of application, beginning with the date of application, when the group is eligible for the application month. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (July 1, 2020), p 28.

Prorated FAP benefits are determined by multiplying the monthly benefits by the number of days remaining in the month including the application date, then dividing this amount by the total number of days in the month, dropping the cents. If the benefit amount is less than \$10, the FAP group will not receive an initial benefit in the application month. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (January 1, 2020), p 6.

Petitioner filed an application for FAP benefits on [REDACTED] 2020. The Department notified Petitioner that she was eligible for FAP benefits with a \$0 monthly allotment for October of 2020, a \$215 monthly allotment for November of 2020, and a \$179 monthly allotment for December of 2020.

The evidence supports a finding that Petitioner was eligible for FAP benefits in October of 2020 and that she was eligible for four days of benefits based on her application date. In order for Petitioner to receive any FAP benefits in [REDACTED] of 2020, she would need to be eligible for a monthly allotment of at least \$77.50.

If Petitioner's prorated FAP allotment was less than \$10, then the Department would not issue any FAP benefits as directed by BEM 556.

However, the hearing record supports a finding that Respondent was eligible for a prorated allotment of FAP benefits exceeding \$10.

Included in ESA 2020-15, updated December 11, 2020, are instructions that "There will be catch up jobs in October and November to provide the supplement to cases opened or reinstated for October." When Petitioner was found to be eligible for FAP benefits in November of 2020, she should have received a catch-up supplement for October if she was eligible for benefits in that month. This Administrative Law Judge finds that

Petitioner was eligible for a prorated FAP allotment in October of 2020 that exceeded \$10 for the month.

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 the Food Assistance Program (FAP) in [REDACTED] of 2020, which was the month that Petitioner filed her application for assistance.

DECISION AND ORDER

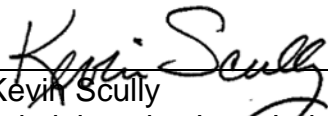
Accordingly, the Department's decision is **REVERSED**.

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:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits for October of 2020, and issue FAP benefits Petitioner was eligible for from October 28, 2020 ongoing, including any FAP supplements Petitioner was entitled to receive as a FAP recipient pursuant to ESA Memo 2020-15, updated December 11, 2020.

Petitioner withdrew her hearing request with respect to Child Development and Care (CDC) benefits and she is no longer protesting the Department's actions with respect to that program.

KS/nr



Kevin Scully
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

Denise McCoggle
27260 Plymouth Rd
Redford, MI
48239

Wayne 15 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED] - via first class mail
[REDACTED], MI