



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: February 1, 2021
MOAHR Docket No.: 20-007459
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, an administrative hearing was held on January 26, 2021.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Nicole Forsythe.

Department Exhibit A.19 was admitted into the record.

ISSUE

Did the Department properly process Petitioner's 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. At all relevant times, Petitioner has been a beneficiary of the FAP program.
2. On November 19, 2020, the Department issued a Notice of Case Action informing Petitioner that her FAP allotment will be reduced to \$16.00 per month due to the discovery of budgeting previously unreported earned income, effective January 1, 2021.
3. On November 25, 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.

Individuals asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner.

Applicable to the facts here, policy and procedure is found primarily in BEM 500, 550 and 554. Corresponding federal regulations are found at 7 CFR 273.10.

In this case, the Department argues that it correctly budgeted previously unreported earned income onto Petitioner's FAP budget resulting in an allotment of \$16.00.

Petitioner argues that she reported the income. Petitioner further argues that she has certain expenses that the Department is not budgeting, including the cost to have her hair done at \$100.00 per month. Petitioner also argues that she needs extra food as she needs a special diet due to being overweight and diabetes. Petitioner also argued that she is not getting the COVID supplement as required by law and policy.

As to Petitioner's argument that she reported the income, whether the error is agency or client error, the Department indicated that in both cases the Department is mandated to budget all income regardless as to whether it is client or agency error, with certain exceptions not applicable here. Failure of the State of Michigan to budget federally mandated income and expenses can result in the State of Michigan being subjected to significant financial penalties.

Petitioner offered no law or policy that would entitle her to deduct that cost of hair or beauty treatments from the amount of welfare benefits.

As to Petitioner's request for extra FAP benefits based on her individual medical diagnoses, again Petitioner offered no law or policy which would entitle her to the same.

As to Petitioner's request for extra benefits due to her over all expenses, the FAP program is not designed to allow individuals extra funds beyond the standardized allocations to meet other household expenses.

As to the amount of FAP benefits being insufficient, the FAP program is not designed to meet 100% of a beneficiary's nutritional needs, but rather approximately 65%.

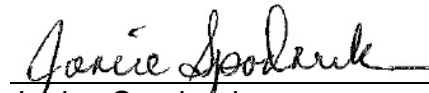
As to the COVID supplement, the Department presented evidence that Petitioner has been eligible for and has received every COVID FAP payment as well as the State of Michigan 15% supplement. While January 2021 is not a reviewable month before this forum, the Department indicated that the as of the date of the administrative hearing the Department had not yet issued the January 2021 supplement. However, the BRIDGES has tagged Petitioner's case as eligible.

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 processed Petitioner's FAP case.

DECISION AND ORDER

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

JS/ml



Janice Spodarek
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

LaClair Winbush
Wayne (Dist 31) 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 [REDACTED]