



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]

Date Mailed: January 25, 2021
MOAHR Docket No.: 20-007620
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference on January 20, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of October 2020, Petitioner was an ongoing recipient of FAP benefits as the only member in his group.
2. On November 9, 2020, MDHHS determined Petitioner to be eligible for \$66 in monthly FAP benefits beginning November 2020.
3. On [REDACTED], 2020, Petitioner requested a hearing to dispute FAP eligibility.

4. On November 25, 2020, MDHHS redetermined Petitioner's child support expenses and determined that Petitioner was eligible to receive \$90 in FAP benefits beginning December 2020.
5. On January 20, 2021, during an administrative hearing, MDHHS did not present evidence to verify that Petitioner received the maximum FAP issuance for his group size from November 2020 through January 2021.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of FAP benefits. It was not disputed that MDHHS determined Petitioner to be eligible for \$65 in FAP benefits beginning November 2020.

BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. For most hearings, MDHHS submits a budget listing all factors used to determine FAP eligibility which are discussed with MDHHS and the client during the hearing. MDHHS did not participate in Petitioner's hearing. Also, MDHHS did not submit a budget for a disputed benefit month as part of its hearing packet.¹ The only evidence presented during the hearing was Petitioner's testimony.

Petitioner testified that MDHHS reduced his ongoing FAP eligibility after he reported receiving unemployment income. Petitioner testified that he thought the reduction in FAP benefits to \$65 was excessive given his income. Petitioner further testified that received only \$65 to \$90 in FAP benefits since November 2020. Petitioner's testimony raised two points that may be addressed.

MDHHS's summary admitted that Petitioner's FAP eligibility was improperly calculated for November 2020 due to incorrectly budgeted child support expenses. After correcting the error, MDHHS determined Petitioner to be eligible for \$90 in FAP benefits beginning December 2020. MDHHS did not participate in the hearing to explain why the correction of child support income did not apply to November 2020. The lack of evidence justifies ordering MDHHS to recalculate Petitioner's FAP eligibility for November 2020, with particular emphasis on reexamining child support expenses.

¹ MDHHS's hearing packet, which was not admitted as an exhibit, included a budget from September 2020: this month was not disputed by Petitioner.

Petitioner's testimony that he received no more than \$90 since November 2020 was curious. MDHHS issued memorandum ESA 2020-15 on March 26, 2020, under the Economic Stability Administration, which states that FAP recipients are to receive the maximum FAP issuance for their group size. The policy originally lasted two months; however, it has since been extended monthly including on November 5, 2020, and December 11, 2020, to affect November 2020 and December 2020. Additionally, ESA 2021-03 dated January 13, 2021, extended the policy through at least January 2021. As of November and December 2020, the maximum FAP issuance for a 1-person FAP group was \$204. RFT 260 (October 2020) p. 1. As of January 2021, the maximum issuance for a 1-person FAP group increased to \$234. ESA 2021-03. MDHHS did not present evidence explaining whether Petitioner received the maximum FAP issuance, and if not, why not.

Given the evidence, MDHHS improperly determined Petitioner's FAP eligibility beginning November 2020. As a remedy, MDHHS will have to reprocess Petitioner's FAP eligibility with attention to Petitioner's child support expenses and compliance with ESA 2020-15 and ESA 2021-03.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed Petitioner's FAP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility beginning November 2020 subject to the following findings:
 - a. MDHHS failed to establish properly factoring Petitioner's child support expenses beginning November 2020;
 - b. MDHHS failed to establish that Petitioner received the maximum FAP issuance for his group size pursuant to ESA 2020-15 and ESA 2021-03; and
- (2) Issue supplements, if any, and notice, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki
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

Via Email:

MDHHS-Wayne-76-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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