



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: April 2, 2021
MOAHR Docket No.: 21-000346
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 March 4, 2021.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Brad Reno.

ISSUE

Did the Department properly reduce Petitioner's Food Stamp Program 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. At all relevant time, Petitioner was a beneficiary of the FAP program.
2. On January 31, 2020, the Department processed Petitioner's FAP at redetermination and budgeted Petitioner's yearly property taxes of \$615.14 every month in error.
3. The Department discovered its error one year later and on January 8, 2021 the Department issued a Notice of Case Action reducing Petitioner's FAP benefits to \$68.00 per month.
4. On [REDACTED] 2021 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.

Department policy and procedure is found primarily at BAM 105, 130, 20-220, 600, 700, 705, 725, 800, 801; BEM 500, 503, 505, 550, 554, and 556. Corresponding federal regulations are found at 7 CFR 273.10, 273.2.

In this case, Petitioner argues that the Department erred, and that he should not be held responsible for the Department's mistake. The Department agrees that Petitioner's property taxes were incorrectly budgeted by the Department. However, the Department argues that it is required to adjust Petitioner's FAP benefits to the correct amount under law and policy.

First, it is noted that the Department indicated that any recoupment/overissuance will be addressed by the recoupment office and is being reviewed in a different administrative hearing. It is also noted that any other across the board changes mandated by federal and state law are not in dispute herein regarding cost of living and federal changes in heat and utility standards.

As to Petitioner's argument, essentially, he is requesting to continue receiving more benefits than he is entitled to on the grounds that the Department erred. However, there is no law or policy that would allow Petitioner to receive more benefits than he is entitled to based on an error of the Department.

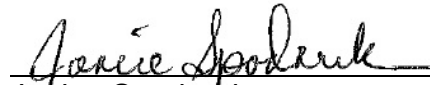
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it corrected its FAP budgeting error which reduced Petitioner's FAP benefit eligibility.

It is noted that Petitioner may have been eligible to full benefits due to the COVID FAP supplements, which was not at issue herein.

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

Tamara Morris
Genesee (Union St) County DHHS – via
electronic mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail

[REDACTED] MI [REDACTED]