



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: March 11, 2021
MOAHR Docket No.: 21-000448
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 10, 2021.

Petitioner appeared and testified. [REDACTED] with the [REDACTED] [REDACTED] appeared as a translator on behalf of Petitioner. The Department did not object.

The Department of Health and Human Services (Department) was represented by Hoysem Hosny, Hearings Facilitator.

Department Exhibit A.18 was offered and admitted into the record.

ISSUE

Did the Department properly calculate Petitioner's October 2020, November 2020, December 2020, and January 1 through 17, 2021 FAP 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. Prior to October 2020, Petitioner's FAP household received \$239.00 per month in FAP benefits.
2. Beginning in October 2020, Petitioner's monthly SSI income changed from \$49.00 to \$439.00 per month.

3. In October and November 2020, Petitioner's FAP monthly benefits were reduced to \$63.00 per month.
4. Effective December 1, 2020, Petitioner's FAP case closed due to Petitioner failing to return a requested verification.
5. On January 18, 2021, Petitioner's FAP case reopened due to Petitioner providing the requested verification on the same date.
6. On January 26, 2021, Petitioner filed a hearing request regarding the Department's verification request. At the administrative hearing, Petitioner stated that he no longer disputes any issues regarding verification(s) but instead wanted the Department to review his monthly benefits from October 2020 through January 17, 2021. The Department requested to go forward at the hearing with Petitioner's verbal request, despite not having prepared an evidentiary packet on the grounds that it could present testimony on the monthly allotments during the disputed time-period.

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 at application for welfare benefits have the burden of proof by a preponderance of evidence. In cases where the Department issues an adverse action, the Department has the burden of going forward to bring forth sufficient evidence to support the action taken; then the burden shifts to the Petitioner.

In this case, applicable Department policy is found at BAM 115, and 210; BEM 554, 500-505, 556, 554, and 550. Corresponding federal regulations are found at 7 CFR 273.

Here, Petitioner raised multiple issues regarding income budget calculations regarding his spouse. Petitioner argued that his spouse's income should not have been budgeted since June 2020, then revised his testimony to August 2020. The Department responded by presenting information from a wage match. In addition, the employer verification subsequently submitted by Petitioner's spouse shows that Petitioner's

spouse was employed in August 2020. Petitioner acknowledged that neither he nor his spouse had reported that the earned income had stopped, nor had they provided verification with regard to the allotment from October 2020 through January 17, 2021 until January 18, 2021. Thus, Petitioner did not rebut with evidence the Respondent's calculation of the FAP allotment during the months in dispute.

At the same time, there was some discussion regarding the COVID supplement in the months of when there was some eligibility for FAP benefits. The Department's witness was unable to address whether Petitioner was eligible and/or whether he was issued any supplemental benefits. Thus, the Department shall be ordered to review whether a COVID supplement is indicated.

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 a decision that partially upholds and partially reverses is required according to the dictates set forth below:

DECISION AND ORDER

Accordingly, the Department's decision is:

PARTIALLY AFFIRMED with regard to the calculation of Petitioner's FAP benefits for October 2020, November 2020, December 2020 and January 1-17, 2021, and

PARTIALLY REVERSED with regard to whether Petitioner was eligible for a COVID supplement in the months from October 2020 through January 2021.

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:

1. Have a supervisor review Petitioner's FAP case regarding whether Petitioner was eligible for any COVID supplement for the months from October 2020 through January 2021, and
2. If so, issue any supplemental benefits to Petitioner to which he may be entitled.

IT IS SO ORDERED.

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

Dawn Tromontine
Macomb (Dist 36) County DHHS

BSC4 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

██████████ – via first class mail

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