



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: May 5, 2021
MOAHR Docket No.: 21-001751
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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, telephone hearing was held on April 29, 2021, from Lansing, Michigan. The Petitioner [REDACTED] self-represented at the hearing. The Department of Health and Human Services (Department or Respondent) was represented by April White, Eligibility Specialist and Ryan Clemons, Family Independence Manager.

Department's Exhibit A pages 1-23 were admitted as evidence.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (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. Petitioner is an FAP benefit recipient.
2. Petitioner was receiving \$141 in FAP benefits.
3. On March 23, 2021, Petitioner returned her mid-certification indicating that her rental expense decreased.
4. Petitioner indicated that her rent decreased from \$127 to \$115 monthly.

5. While updating Petitioner's case, it was discovered that Petitioner was receiving a heating cost expense for gas.
6. A review of Petitioner's DTE account on DTE's online for agencies revealed that Petitioner's home is an "Electric Residential Full Service".
7. The heat and utility standard (\$537) was removed and Petitioner was given the non-heat electric standard expense (\$141) decreasing FAP to \$16 per monthly allotment.
8. On March 23, 2021, the Department sent Petitioner notice that her FAP benefits were reduced.
9. On March 29, 2021, Petitioner submitted as hearing request to contest the Department's negative action.

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 Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, Table 240-1.

In the instant case, Petitioner's household received total monthly income of \$820.

Petitioner was given the standard deduction of \$167 for an adjusted gross income of \$653.

Petitioner pays \$115 per month in rent, and she was given the non-heat electric standard of \$141 for a total of \$285 in total shelter amount.

\$285 in total shelter amount - \$326 (50% of adjust gross income) = \$0 in Adjusted Excess shelter amount.

\$653 net income x .30 (net income divisor) = \$196.

The maximum monthly FAP benefit for a one-person group = \$204.

\$204 (maximum benefit) - \$196 (30% of net income) = \$8 in monthly FAP benefit allotment.

The minimum monthly FAP benefit is \$16. Petitioner is entitled to \$16 in monthly FAP benefits.


A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for a \$16.00 per month in Food Assistance Program benefits. The Department has established its case by a preponderance of the evidence.

DECISION AND ORDER

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

LL/hb



Landis Lain
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

Washtenaw County via electronic mail

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]