



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]
[REDACTED] MI [REDACTED]

Date Mailed: May 28, 2021
MOAHR Docket No.: 21-001795
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on May 20, 2021. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Caroline Owczarzak, Eligibility Specialist (ES) and Kaylie Polk, ES.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-22.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (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. On [REDACTED] 2021, Petitioner called his worker in the previous County and reported a move to [REDACTED] County. Petitioner's address was updated and the case was transferred. (Exhibit A, p. 2)
2. On [REDACTED] 2021, a Notice of Case Action was issued to Petitioner decreasing FAP to [REDACTED] per month effective [REDACTED] 2021. The decrease was due to a change in the shelter expense. The Budget Summary shows that no housing costs were included. The heat and utility standard was included the budget. (Exhibit A, pp. 5-9)

3. On [REDACTED] 2021, Petitioner called his new worker in [REDACTED] County and reported a rent expense of [REDACTED] per month as well as electric and telephone expenses. (Exhibit A, p. 2)
4. On [REDACTED] 2021, a Notice of Case Action was issued to Petitioner increasing FAP to [REDACTED] per month effective [REDACTED] 2021. The increase was due to a change in the shelter expense. The Budget Summary shows that housing costs of [REDACTED] were included as well as the heat and utility standard. (Exhibit A, pp. 10-14)
5. On [REDACTED] 2021, Petitioner submitted a copy of his lease agreement verifying the rent and electric expenses. (Exhibit A, pp. 15-18)
6. On [REDACTED] 2021, Petitioner requested a hearing contesting the Department's actions. (Exhibit A, p. 3)

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.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits. The Department counts the gross benefit amount of current SSA-issued benefits as unearned income. BEM 503, January 1, 2021, pp. 29-31 and 35-36.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (January 1, 2021), pp. 13-14. Heat and utility expenses can also be included as allowed by policy. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses; for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment

must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. A FAP group which has no heating/cooling expense but has a responsibility to pay for non-heat electricity separate from rent/mortgage or condo/maintenance fees must use the non-heat electric standard. The standard covers only non-heat electric. BEM 554, pp. 16-25.

Effective January 1, 2021, the maximum FAP issuance amount for a group size of one was \$234.00. RFT 260, January 1, 2021.

In this case, Petitioner called his worker in the previous County on [REDACTED] 2021 and reported a move to [REDACTED] County. Petitioner's address was updated and the case was transferred. (Exhibit A, p. 2) On [REDACTED] 2021, a Notice of Case Action was issued to Petitioner decreasing FAP to [REDACTED] per month effective [REDACTED] 2021. The decrease was due to a change in the shelter expense. The Budget Summary shows that no housing costs were included. The heat and utility standard was included the budget. (Exhibit A, pp. 5-9)

On [REDACTED] 2021, Petitioner called his new worker in [REDACTED] County and reported a rent expense of [REDACTED] per month as well as electric and telephone expenses. (Exhibit A, p. 2) On [REDACTED] 2021, a Notice of Case Action was issued to Petitioner increasing FAP to [REDACTED] per month effective [REDACTED] 2021. The increase was due to a change in the shelter expense. The Budget Summary shows that housing costs of [REDACTED] were included as well as the heat and utility standard. (Exhibit A, pp. 10-14) On [REDACTED] 2021, Petitioner submitted a copy of his lease agreement verifying the rent and electric expenses. (Exhibit A, pp. 15-18)

During the hearing, the FAP budget for [REDACTED] 2021 was reviewed with Petitioner. It was confirmed that the income and expenses utilized in the budget were accurate, including the new rent amount of [REDACTED] (Exhibit A, pp. 20-22; Petitioner Testimony)

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 determined Petitioner's eligibility for FAP.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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

Kim Cates
Bay County DHHS – via electronic mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

██████████ – via first class mail

████████████████████

██████████ MI ██████████