



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: June 2, 2021
MOAHR Docket No.: 21-002000
Agency No.: [REDACTED]
Petitioner: [REDACTED].

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 26, 2021, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine 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. Petitioner was an ongoing FAP recipient.
2. On February 1, 2021, the Department sent Petitioner a Notice of Case Action informing him that he was eligible for FAP benefits in the amount of \$234 between March 1, 2021 and August 31, 2021 (Exhibit A, pp. 5-9).
3. On March 30, 2021, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit amount was decreasing to \$204 per month effective May 1, 2021, ongoing (Exhibit A, pp. 11-15).
4. On April 14, 2021, Petitioner submitted a request for hearing disputing the Department's actions.

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.

The Consolidated Appropriations Act, 2021 (CAA) was federally authorized on December 27, 2020. Under this act, the Federal Nutrition Service (FNS) has authorized the Department to provide a temporary 15% increase in maximum FAP benefits for January – June 2021. This 15% increase will be issued as supplemental FAP benefits in Bridges, with staggered availability dates based on recipient ID. Each month, January through June 2021, FAP recipients will receive a separate supplement, after the regular monthly benefit issuance has been completed. The 15% supplement will be separate from the Emergency Allotment (EA) payments and is not subject to separate monthly approval. RFT 260, FAP Issuance Tables, has been updated to reflect the new maximum benefit amounts. Policy Exception Memorandum issued by the ESA in response to the COVID-19 crisis number 2021-04, issued January 15, 2021. Department reference table bulletin 2021-008 states that the 15% benefit increase incorporated into RFT 260 has been extended to September 30, 2021. RFB 2021-008 (May 2021), p. 1. Additionally, RFT 260 indicates the maximum FAP benefit amount for a group size of one is \$234, and specifically provides that amount is effective January 1, 2021 through September 30, 2021. RFT 260 (May 2021), p. 1. Once the 15% increase ends effective September 30, 2021, Petitioner will only be potentially eligible for the maximum allowed by policy per RFT 260, which is currently \$204. RFT 260 (October 2020), p. 1.

At the hearing, the Department testified that Petitioner was issued a Notice of Case Action on March 30, 2021, notifying him that his FAP benefits were decreasing to \$204 per month. The Department stated that initially clients were provided with the 15% FAP benefit increase in their initial FAP benefit allotment issued every month. However, the Department began issuing the 15% FAP increase as a supplement effective May 1, 2021, as the increase is temporary. As a result, the Department issued notices to all clients notifying them of the amount of their ongoing FAP benefit amount. The notice does not specify that the 15% increase will be issued as a supplement. Per RFT 260, the standard monthly maximum benefit amount for a group size of one is \$204. RFT 260 (October 2020), p. 1. With the 15% increase, the monthly FAP benefit amount for a group size of one is \$234. RFT 260 (January 2021), p. 1. The Department also

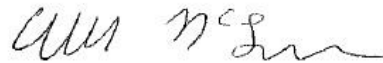
presented Petitioner's benefit issuance summary showing that prior to May 1, 2021, he was receiving a monthly FAP benefit amount of \$234. Subsequent to May 1, 2021, Petitioner received a monthly FAP benefit amount of \$204 with a \$30 supplement.

The Department presented sufficient evidence to establish that Petitioner is receiving the full FAP benefit amount allowed per policy for his group size. The notice advising Petitioner of the decrease in his FAP benefit amount was issued solely because the Department began implementing a new method of issuing the 15% FAP increase. Therefore, the Department acted in accordance with Department policy when it determined Petitioner's FAP eligibility.

DECISION AND ORDER

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 FAP benefit eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/jem



Ellen McLemore
Administrative Law Judge

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-17-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

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