



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: July 23, 2021
MOAHR Docket No.: 21-002943
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 July 13, 2021. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-49 and Petitioner's documentation was admitted as Exhibit 1, pp. 1-7.

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. Previously a housing expense of [REDACTED] was included in Petitioner's FAP budget. (Exhibit A, p. 21)
2. Petitioner was receiving FAP benefits of [REDACTED] per month. (Exhibit A, p. 1)
3. On May 17, 2021, Petitioner submitted a Redetermination form for her FAP case. (Exhibit A, pp. 7-11)

4. On June 2, 2021, a Notice of Case Action was issued stating FAP was approved from July 1, 2021 to June 30, 2023 for [REDACTED] per month. The budget summary showed the Department included a housing cost of [REDACTED]. (Exhibit A, pp. 12-16)
5. On the June 2, 2021 Notice of Case Action, the Department requested verification of homeowners insurance and maintenance fees, as well as the balances of the Family First and Health Advantage accounts. (Exhibit A, p. 12)
6. On [REDACTED] 2021, Petitioner verbally requested a hearing contesting the FAP determination. (Exhibit A, pp. 3-5 and 42)
7. On [REDACTED] 2021, Petitioner provided verification of homeowners insurance and a written note stating the home maintenance fee is [REDACTED] per month. (Exhibit A, pp. 40-42)
8. The Department did not budget the maintenance fee because Petitioner is not in a condo and owns her own home. (Exhibit A, pp. 23-39 and 42)
9. On June 15, 2021, a Notice of Case Action was issued stating FAP was approved from July 1, 2021 to June 30, 2023 for [REDACTED] per month. The budget summary showed the Department included a housing cost of [REDACTED] (Exhibit A, pp. 43-47)

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 Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, January 1, 2021, p. 1. Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, January 1, 2021, p. 2.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits. BEM 503, April 1, 2021, pp. 29-31 and 35-38. The Department counts the gross benefit amount as

unearned income. The Department also counts the corresponding monthly amount of the quarterly State SSI payments as unearned income. BEM 503, pp. 29, 35-37.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (April 1, 2021), p. 13. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 14. (Underline added by ALJ) 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. BEM 554, p. 16.

Petitioner contests the Department discontinuing including the home maintenance fee as an expense in the FAP budget. Petitioner further asserted that she has other expenses she must pay to continue to live in her home. For example, paying for garbage removal, getting the grass cut or snow removed, an alarm system, and needing a new mattress. Petitioner does not want to go to a nursing home. (Exhibit 1; Petitioner Testimony)

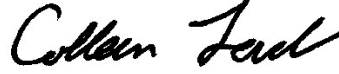
The BEM 554 policy indicates that an allowable fee expense would be something like a required condo or maintenance fee. In other words, the Department would include a fee that an individual must pay to a property management company for the home in that community. This would not apply to a homeowner that is not in such a community. Further, the full h/u standard includes all utility costs, such as heat, electric, water and sewer, telephone, cooking fuel, and trash removal. BEM 554, pp. 22-25. It is not doubted that Petitioner has additional expenses. However, the BEM 554 policy specifies which types of expenses are allowed to be considered. The policy does not allow for expenses related to grass cutting, snow removal, alarm systems, or new mattresses to be included in the FAP budget. This Administrative Law Judge must review the Department's determination under the existing policy and has no authority to change or make any exceptions to Department policy.

Overall, the evidence shows that the Department properly calculated Petitioner's FAP budget using the allowable expenses. 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

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 – via email

MDHHS-Saginaw-Hearings
BSC2
M. Holden
D. Sweeney
MOAHR

Petitioner – via first class mail

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