



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: December 20, 2021  
MOAHR Docket No.: 21-005512  
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, a telephone was held on 12/15/2021.

Petitioner appeared unrepresented. Petitioner did not call any witnesses and did not submit any evidence.

The Department of Health and Human Services (Department) was represented by Ms. McLaughlin, FIM and HF and Andrew Corwin, ES Worker. Department Exhibit A.31 was offered and admitted into the record.

### **ISSUE**

Did the Department properly reduce Petitioner's FAP benefits at redetermination?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner has been a FAP beneficiary.
2. On 9/04/2021 the Department issued FAP redetermination papers to Petitioner for the FAP program with verifications due by 9/24/2021. The Department received the forms back on 10/05/2021.

3. For years Petitioner had been receiving a heat and utility allowance on her FAP budget without qualifying for the expense due to Petitioner failing to complete necessary paperwork for one of three alternative programs.
4. On 10/06/2021 the Department issued a Notice of Case Action for redetermination approving Petitioner, beginning 11/01/2021 at \$60.00 per month in FAP benefits, down from \$175.00.
5. Petitioner's worker had informed Petitioner as to how she should apply for one of the three programs for which Petitioner should qualify-the LIHEAP program in order to have her eligibility reset for the heat and utility standard which would thereby give Petitioner a FAP benefit of \$175.00.
6. On 11/12/2021 Petitioner requested a hearing.

### **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 purview of an Administrative Law Judge is to review the Department's action, and, to make a determination if the evidence of record supports that action taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not support by the evidence and is contrary to law or policy. ALJs do not have any jurisdiction to deviate from law or policy due to individual circumstances.

Here, the Department has met its burden to show with evidence that it correctly followed policy as required by the FAP budgeting process as dictated by federal and state law and policy. See BEM 500-505; 554; 556. Corresponding federal regulations are found at 7 CFR 273.10, 273.2, 273.9. Petitioner did not dispute the budget attached to the Notice of Case Action; the income and deductions are correct.

Evidence shows that the Department followed the law and policy. Petitioner failed to establish that she even attempted to comply with the verification requests. Failure by the Department to have all the necessary verifications in a recipient's file can subject

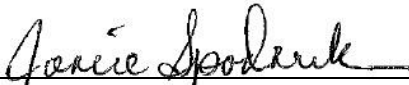
the Department to significant financial penalties. Under these facts, this case must be upheld.

It is noted that the Department once again explained in depth the process to Petitioner which would give the heat and utility credit. Without a doubt, it is somewhat complicated. Nevertheless, it would change Petitioner's grant substantially, from \$60.00 to \$175.00. It is also noted that Department indicated that due to COVID many FAP recipients are receiving supplements for a full FAP allotment at this time.

**DECISION AND ORDER**

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

JS/ml

  
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**Janice Spodarek**  
Administrative Law Judge  
for Elizabeth Hertel, Director  
Department of Health and Human Services

