



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: June 10, 2022
MOAHR Docket No.: 22-002114
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, an administrative hearing was held on 6/9/2022.

Petitioner appeared unrepresented.

Respondent, the Michigan Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearings Facilitator.

Department Exhibit A.14 was offered and admitted into the record. Petitioner did not offer any exhibits.

There were no other witnesses.

ISSUE

Did the Department properly reduce Petitioner's 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. Prior to the action at issue herein, Petitioner was a recipient of \$175.00 in FAP benefits per month.
2. On 2/16/2022 Petitioner reported that she no longer paid her utilities separate from her rent as utilities were included in her rent payment.

3. On 2/16/2022 the Department issued notice that effective 3/1/2022 Petitioner's FAP benefits will be decreased to \$20.00 per month due to the utility expense change.
4. On 5/13/2022 Petitioner filed a hearing request.

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 this case, applicable policy is found primarily at BEM 554 and BAM 220. Under this policy, and in compliance with federal law, the MDHHS is required to remove any shelter FAP budget utility expense when it is included in the rental amount.

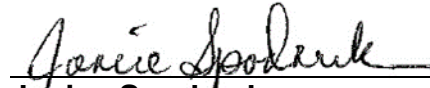
Unrefuted evidence of record is that Petitioner's utility expense was removed from the FAP budget due to it being included in the monthly rent. A new FAP budget shows that the removal of the utility expense reduced Petitioner's FAP benefits to \$20.00 per month. Petitioner does not dispute any other calculations in the FAP budget. A review of the FAP budget shows that the Department followed its policy and procedure in budgeting Petitioner's FAP benefits. As such, the Department's actions are in compliance with federal and state law and thus, must be upheld.

It is noted that Petitioner continues to receive a full monthly FAP allotment due to the pandemic FAP program. Petitioner understands that once the extra allotment is discontinued, that this action will take effect as it was upheld by the Administrative Law Judge.

DECISION AND ORDER

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

JS/dm



Janice Spodarek
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

Via-Electronic Mail :

**MDHHS-Macomb-12-Hearings
M. Holden
D. Sweeny
MOAHR
BSC4HearingDecisions**

Via-First Class Mail :

**Petitioner
[REDACTED]
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[REDACTED]
[REDACTED] MI [REDACTED]**