



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: October 28, 2022
MOAHR Docket No.: 22-004222
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 20, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Shannon Sziende and Juan Amaya.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (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. Petitioner was an ongoing Food Assistance Program (FAP) recipient on July 20, 2022, when the Department received her Redetermination (DHS-1010) form. Exhibit A, p 10.
2. On her July 20, 2022, Redetermination form, Petitioner reported, but did not verify, ongoing medical expenses of \$15 per month. Exhibit A, p 12.
3. On August 30, 2022, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of medical expenses by September 9, 2022. Exhibit A, p 4.
4. On September 9, 2022, the Department received verification of medical expenses that Petitioner incurred in the amounts of \$1,400, \$20 on May 5, 2022, \$20 on May 25, 2022, and \$20 on May 24, 2022. Exhibit A, p 6.

5. On September 9, 2022, the Department received Petitioner's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits. 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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

When determining countable expenses towards eligibility for FAP benefits, the Department will only consider the medical expenses of senior/disabled/veterans in the eligible household. Recipients of FAP benefits are not required to but may voluntarily report medical expenses during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2022), pp 8-9.

An FAP household that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction. The standard medical deduction is \$165. If the group has actual medical expenses which are more than the standard medical deduction, they have the option to verify their actual expenses instead of receiving the standard medical deduction. BEM 554, p 9.

Households that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period:

1. Budget it for one month.
2. Average it over the remainder of the first 12 months of the benefit period.
3. Average it over the remainder of the 24-month benefit period.

BEM 554, p 10.

Petitioner was an ongoing FAP recipient when the Department received her Redetermination form on July 20, 2022, reporting that she was incurring ongoing prescription medication expenses of \$15 per month. On August 30, 2022, the Department requested that Petitioner provide verification of her medical expenses by September 9, 2022.

Petitioner did not provide the Department with verification of her reported ongoing medication expenses but did submit a receipt showing recently incurred medical expenses of \$1,460.

The Department's representative testified that the Department was unable to apply the \$15 ongoing medical expense towards Petitioner's eligibility for FAP benefits because it did not exceed \$35. Further, that ongoing expenses was not verified.

The Department also argues that the one-time expense that were verified on September 9, 2022, were applied in one month because they were one-time expenses and only ongoing medical expenses could be applied over multiple months.

Department policy in BEM 554 clearly allows one-time medical expenses to be applied towards a FAP recipients eligibility for benefits for more than one month. Further, applying those expenses over multiple months as directed by BEM 554 may allow Petitioner to take advantage of the standard medical deduction over multiple months.

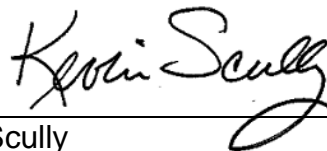
The hearing record does not clearly establish the length of Petitioner's benefit period. The Department has the burden of establishing that its actions were in accordance with policy, and this Administrative Law Judge finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it applied Petitioner's verified medical expense to one monthly only.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Petitioner's eligibility for August 1, 2022.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.



KS/nr

Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings and
Rules (MOAHR)

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 :

DHHS
Renee Olian
Kalamazoo County DHHS
427 E Alcott St
Kalamazoo, MI 49001
**MDHHS-Kalamazoo-
Hearings@michigan.gov**

Interested Parties
Kalamazoo County DHHS
BSC3
M. Holden
D. Sweeney
D. Smith
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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