



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: January 25, 2023
MOAHR Docket No.: 22-005995
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on January 19, 2023 via teleconference. Petitioner appeared and represented by herself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

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 recipient of FAP benefits.
2. On December 3, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefit rate would decrease to \$██████████ per month, beginning January 1, 2023 (Exhibit A, p. 12).
3. On December 6, 2022, MDHHS received from Petitioner a Benefit Verification Letter from the Social Security Administration (SSA) (Exhibit A, p. 9). The letter indicated that beginning December 2022, Petitioner's Retirement, Survivors, Disability Insurance (RSDI) benefit rate was \$██████████ (Exhibit A, p. 9). Previously, Petitioner was receiving \$██████████ in monthly Social Security benefits (Exhibit A, p. 9).

4. On December 16, 2022, Petitioner filed a Request for Hearing to challenge the reduction of her FAP benefit rate (Exhibit A, pp. 3-5).

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. MDHHS 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, Petitioner disputed the reduction of her FAP benefit rate. MDHHS reduced Petitioner's FAP benefit rate to \$[REDACTED] per month after receiving information from SSA that Petitioner's RSDI benefit rate had increased.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. There was no evidence of earned income. MDHHS budgeted \$[REDACTED] for Petitioner's unearned income based on RSDI payments received by Petitioner and monthly child support payments. For RSDI, MDHHS is required to budget the gross benefit amount as unearned income. BEM 503 (January 2023), p. 29. The documentation from SSA confirmed that Petitioner's RSDI gross benefit rate was \$[REDACTED] per month (Exhibit A, p. 9). Petitioner did not dispute this amount.

For child support income, MDHHS testified that it had information that Petitioner received approximately \$[REDACTED] per month in child support income for her adult son. Petitioner disputed this amount and testified that she had not received any child support income in years.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023). To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a Verification Checklist (VCL) to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date that they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has lapsed and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the

due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.* Additionally, MDHHS is required to give clients a reasonable opportunity to resolve any discrepancies between their statements and information from another source. *Id.*, p. 9.

Due to the discrepancy regarding child support income in this case, MDHHS should have requested additional verification of the child support income and given Petitioner a reasonable opportunity to resolve the discrepancy. Accordingly, 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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Redetermine Petitioner's FAP benefit rate, beginning January 1, 2023 ongoing, requesting additional verification from Petitioner, if necessary;
2. Issue supplements to Petitioner for any FAP benefits that she was entitled to receive but did not receive from January 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

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