



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: April 21, 2023
MOAHR Docket No.: 23-001342
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 April 12, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-14.

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. On December 3, 2022, a data exchange update increased Petitioner's income from unemployment compensation benefits (UCB). (Exhibit A, pp. 1, 3, and 11)
2. The Department re-determined Petitioner's eligibility for FAP. (Exhibit A, pp. 12-13)
3. On February 18, 2023, a Notice of Case Action was issued to Petitioner approving FAP for a decreased amount of \$13.00 per month for the period of April 1, 2023 through January 31, 2024. (Exhibit A, pp. 6-10)
4. On March 3, 2023, Petitioner requested a hearing contesting the amount of her monthly FAP allotment. (Exhibit A, unnumbered page)

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-home rental is when a landlord rents out part of his own dwelling to another individual. BEM 504, October 1, 2019, p. 1. Bridges counts the gross rent payment minus expenses as earned income from self-employment. Bridges allows the higher of the following: 60 percent of the rental payment; or actual rental expenses if the landlord chooses to claim and verify the expenses. BEM 504, October 1, 2019, p. 2.

In calculating the FAP budget, the Department considers unearned income, which includes unemployment compensation benefits (UCB). BEM 503, January 1, 2023, pp. 29-31. The Department counts the gross benefit amount as unearned income. BEM 503, pp. 37-38.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2022), p. 13. Shelter expenses include property taxes. BEM 554 p. 15. 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. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, p. 16. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22.

In this case, the Department redetermined Petitioner's eligibility for FAP due to the increase with Petitioner's UCB income. The full heat and utility standard was included in the FAP budget. At that time, a shelter expense of \$588.00 was included as well as

income of [REDACTED] based on 40% of an in-home rental of \$500.00 per month. (Exhibit A, pp. 3, 7, and 11-13; APS Testimony)

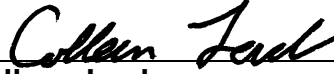
Petitioner testified that her housing expense has increased, however, she had not yet reported the increase to the Department. Petitioner also noted that the overissuance benefits that are being withheld to repay was due to a Department error. (Petitioner Testimony). As discussed, when a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, October 1, 2018, p. 1. An agency error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes, such as when available information was not used. Agency errors are pursued if the estimated amount is \$250 or more per program. BAM 700, p. 5.

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 based on the information available at that time.

DECISION AND ORDER

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

CL/ml



Colleen Lack
Administrative Law Judge

