



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 4, 2023
MOAHR Docket No.: 23-003577
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 August 3, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Joshua Young, Assistance Payments Worker (APW).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-20.

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 April 11, 2023, a written notice was issued to Petitioner reducing the monthly FAP benefit amount to \$153.00 effective May 1, 2023. (APW Testimony)
2. On May 12, 2023, a written notice was issued to Petitioner increasing the monthly FAP benefit amount to \$201.00 effective May 1, 2023. (APW Testimony)
3. On May 31, 2021, Petitioner provided proof of self-employment gas expense and updated income information. (Exhibit A, p. 1)

4. On June 19, 2023, Petitioner filed a hearing request regarding her FAP case. (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) [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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2021), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In this case, Petitioner submitted a hearing request regarding her FAP case on June 19, 2023. (Exhibit A, p. 3). The testimony of the APW indicated there were two written notices of case action issued within the 90 days prior to the June 19, 2023 hearing request. On April 11, 2023, a written notice was issued to Petitioner reducing the monthly FAP benefit amount to \$153.00 effective May 1, 2023. (APW Testimony). On May 12, 2023, a written notice was issued to Petitioner increasing the monthly FAP benefit amount to \$201.00 effective May 1, 2023. (APW Testimony). However, the Department's Hearing Summary packet did not address either of those actions. Rather, the Department's hearing summary packet addressed an action that occurred more

recently, specifically the Benefit Notice that was issued June 26, 2023. (Exhibit A, pp. 1-20). There is no jurisdiction to review actions that occurred after the hearing request was filed.

Accordingly, the Department did not submit the documentation needed to proceed with an administrative hearing to be able to review two case actions that occurred within the 90 days prior to Petitioner's June 19, 2023 hearing request. Therefore, the Department's determinations dated April 11, 2023 and May 12, 2023 must be reversed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP on April 11, 2023 and May 12, 2023.


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. Redetermine Petitioner's eligibility for FAP retroactive to the May 1, 2023 effective date in accordance with Department policy.

CL/ml



Colleen Lack
Administrative Law Judge

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
Yaita Turner
Oakland County Pontiac-Woodward Dist.
51111 Woodward Ave 5th Floor
Pontiac, MI 48342
MDHHS-Oakland-District-IV-Hearings@michigan.gov

Interested Parties
BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail:

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