



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: September 26, 2023
MOAHR Docket No.: 23-005146
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On August 18, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Food Assistance Program (FAP) benefit reduction. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 21, 2023. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Tom Jones, Assistance Payments Supervisor, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 11-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly reduce Petitioner's FAP benefit amount to \$57.00 effective June 1, 2023?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department completed a quality control audit in which it reviewed the FAP benefits issued to Petitioner.

2. The Department determined through the course of its quality control audit that corrections were needed to Petitioner's FAP budget because Petitioner's income and shelter expense were not properly budgeted.
3. Petitioner's FAP benefit amount was \$68.00 per month before the Department made any corrections.
4. The Department corrected Petitioner's FAP budget and determined that Petitioner was eligible for a FAP benefit amount of \$57.00 per month effective June 1, 2023.
5. The Department reduced Petitioner's FAP benefit amount, but the Department did not notify Petitioner of the reduction.
6. Petitioner discovered the FAP benefit reduction, and then Petitioner requested a hearing to dispute it.

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 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 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, the Department reduced Petitioner's FAP benefit amount from \$68.00 to \$57.00 effective June 1, 2023. Petitioner is disputing the FAP benefit reduction.


When the Department decides to reduce a FAP benefit amount, the Department must give the client timely notice of the action. BAM 220 (July 1, 2023), p. 5. A timely notice is a notice that is mailed at least 11 days before the intended negative action takes effect. *Id.* Based on the evidence presented, the Department did not give Petitioner proper timely notice of the FAP benefit reduction because the Department did not notify Petitioner of the FAP benefit reduction before it took effect. Since the Department was required to give Petitioner timely notice before reducing her FAP benefit amount, and since the Department failed to do so, the Department did not properly reduce Petitioner's FAP benefit amount.

DECISION AND ORDER

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 did not act in accordance with its policies and the applicable law when it reduced Petitioner's Food Assistance Program benefit amount.

IT IS ORDERED that the Department's decision is **REVERSED**. The Department shall reinstate Petitioner's FAP benefit amount to the amount it was before the Department improperly reduced it, effective June 1, 2023. The Department shall begin to implement this decision within 10 days of the date of mailing of this decision and order.

JK/ml



Jeffrey Kemm
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

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail:

Petitioner

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