



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]

Date Mailed: July 12, 2023
MOAHR Docket No.: 23-002969
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 July 3, 2023, from Lansing, Michigan. The Petitioner was represented by himself. No one appeared for the Department of Health and Human Services (Department). Exhibit A, pp. 1-19 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit?

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 a recipient of FAP benefits.
2. In March 2023, Petitioner submitted documents for a mid-certification review. (Ex. A, pp. 16-18)
3. On April [REDACTED] 2023, Notice of Case Action was sent to Petitioner informing him that his FAP benefits were approved for \$[REDACTED] per month effective May 1, 2023. (Ex. A, pp. 5-9)
4. On May 23, 2023, Petitioner requested hearing.

5. Petitioner submitted medical expense documentation which included his prescription expense.

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.

Allowable Medical Expenses

Allowable medical expenses are limited to the following:

Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.

Prescription drugs and the postage for mail-ordered prescriptions.

Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).

Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.

Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy

covers more than one person, allow a prorated amount for the SDV person(s).
Medicare premiums.

Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)

Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.

Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs cannot be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dtmb, select Services & Facilities from the left navigation menu, then select Travel. On the travel page, choose Travel Rates and High-Cost Cities using the rate for the current year.

The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides most of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it must be treated as a medical expense.

A Medicaid deductible is allowed if the following are true. The medical expenses used to meet the Medicaid deductible are allowable FAP expenses.

The medical expenses are not overdue. BEM 554 (April 2023)

In this case, Petitioner credibly testified at hearing that he provided medical expense information including prescription expenses to the Department on the day of the hearing. No one from the Department appeared at the time of the scheduled hearing. Petitioner's medical expense verifications should be processed and his FAP benefit should be re-budgeted taking into consideration those medical expenses. BEM 554

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 FAP benefit.

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. Re-budget Petitioner's FAP benefit taking into consideration medical expense information he submitted on July 3, 2023.
2. Issue a supplement if Petitioner is found to be entitled to an increase in FAP benefit amount.

AM/dm



Aaron McClintic
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
Marlena Huddleston
Muskegon County DHHS
**MDHHS-Muskegon-
Hearing@michigan.gov**

HoldenM

SweeneyD

BSC3HearingDecisions

Via-First Class Mail :

MOAHR
Petitioner

[REDACTED]
[REDACTED]
[REDACTED]