



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 21, 2016
MAHS Docket No.: 16-001700
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on March 15, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the 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. The Petitioner is an ongoing Food Assistance Program (FAP) recipient as a group of one.
2. On November 30, 2015, the Department received the Petitioner's Redetermination (DHS-1010) where he reported being responsible for half the rent in the monthly amount of \$ [REDACTED].
3. On December 10, 2015, the Department received verification of the rent in the monthly amount of \$ [REDACTED] that is addressed to a nonmember of the Petitioner's benefit group.

4. The Petitioner provided the Department with verification that he is responsible for electric service at his home.
5. On December 30, 2015, the Department notified the Petitioner that he was approved for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment effective January 1, 2016.
6. On February 1, 2016, the Department received the Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits he is being granted each month.

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.

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do not prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do not have to be paid to be allowed. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 12.

The Petitioner is an ongoing FAP recipient as a group of one. On November 30, 2015, the Department initiated a routine review of his eligibility to receive continuing benefits after receiving his completed Redetermination (DHS-1010) form. The Petitioner lives with an unrelated adult person that has not been included in his FAP benefit group. On December 10, 2015, the Department received verification of a rent obligation in the monthly amount of \$ [REDACTED] that is addressed to this other person. The Petitioner provided the Department with verification that he is responsible for electric service at his home.

On December 30, 2015, the Department determined that the Petitioner failed to provide verification that he is responsible for housing costs at his home based on verification documents that did not include his name.

The verification of the rent expenses does not name the Petitioner as a person responsible for this monthly expenses, but it is not disputed that he lives at that home based on the verification of his responsibility to pay electricity expenses at that home.

The Petitioner reported on his Redetermination form that he is responsible for half the rent, and provided the Department with verification of the entire rent obligation.

This Administrative Law Judge finds that the Petitioner reported to the Department that he contributes to the shelter expense for his housing and provided verification of the amount of that expense. Shelter expenses are not prorated even if the expense is shared as directed by BEM 554.

Therefore, this Administrative Law Judge finds that the Department improperly excluded housing expenses from its determination of the Petitioner's FAP eligibility as of January 1, 2016.

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 Department policy when it determined the Petitioner's eligibility for the Food Assistance Program (FAP).


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. Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) as of January 1, 2016.
2. Provide the Petitioner with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/las



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]