



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 28, 2016
MAHS Docket No.: 16-002669
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 27, 2016, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Medical Contact Worker, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly supplement the Petitioner's Food Assistance Program (FAP) benefits for 2015?

FINDINGS OF FACT

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

1. At the hearing, the Petitioner testified that he is currently receiving State Disability Assistance (SDA); and at the time of his hearing request on February 18, 2016, his SDA was pending. Given these facts, there is no issue which remains with regard to the Petitioner's request for hearing regarding SDA as the Petitioner is currently eligible and has received benefits.
2. The Petitioner is an ongoing recipient of FAP benefits. The Petitioner currently receives \$ [REDACTED] per month, which is the maximum amount of food assistance for a group of one individual.

3. The Department prepared a Help Desk ticket due to the fact that the Petitioner did not receive the full amount of his FAP benefits (\$ [REDACTED] per month) for the 12-month period beginning February 2015 through the date of his hearing request, February 18, 2016.
4. On January 5, 2016, the Department issued an FAP supplement to the Petitioner for the months of March, April, May, and June 2015 in the following amounts \$ [REDACTED] for March, April, and May 2015; and \$ [REDACTED] for June 2015. Exhibit 3. Exhibits 2 and 3.
5. The Department did not issue an FAP supplement for the month of July 2015. Exhibit 3.
6. The Petitioner requested a timely hearing on February 18, 2016, protesting the Department's failure to provide the correct amount of FAP.

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 this case, at the beginning of the hearing, the Petitioner acknowledged that he currently is receiving SDA, and that at the time he requested a hearing, his SDA application was pending. Given the fact that the Petitioner has been deemed eligible for SDA, and at the time the Petitioner requested a hearing, the Department had taken no action, there remains no further issue to be determined or decided with respect to the hearing request for SDA; and therefore, the hearing request dated February 18, 2016, as regards SDA will be dismissed.

The Department, after receipt of the Petitioner's hearing request, reviewed the Petitioner's FAP benefits and determined that the Petitioner was under issued benefits for several months in 2015. The Department determined that the Petitioner had been under issued benefits for the months of February, March, April, May, and, June 2015 and supplemented those benefits on March 9, 2016, and January 5, 2016, so that the Petitioner would receive the correct benefit amount of \$ [REDACTED] a month. Exhibits 2 and 3.

This was factually established by the Eligibility Summary provided by the Department at the hearing, Exhibit 2, and the benefit issuance summary also provided at the hearing Exhibit 3. The Department, at the hearing, could not explain why no FAP benefits supplement was paid for July 2015.

The Department policy provides that the Department may correct a benefit amount up to 12 months retroactively and provides the following with respect to correcting prior months' benefits:

These supplements are limited to under issuances in a 12 month period before the month in which the earliest of the following occurred: the group requested a hearing to contest a negative action which resulted in a loss. BAM 406 (July 1, 2013), p. 3.

In this case, based on the Petitioner's February 18, 2016, hearing request, the Department correctly determined that it should correct and supplement the Petitioner's FAP retroactive to February 2015. At the hearing, the Department presented no evidence with regard to why the Petitioner received FAP benefits in the amount of \$ [REDACTED] for the month of July 2015 instead of \$ [REDACTED] and could not explain why that month was not also included with the other months outlined above, which resulted in supplements being issued. Based upon the evidence presented, the Department failed to meet its burden of proof with respect to the benefits issued for the month of July 2015.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if, finds that the Department acted in accordance with Department policy when it determined that the Petitioner was eligible for a supplement for the months of February through June 2015.

The Department failed to demonstrate that it acted in accordance with Department policy when it failed to meet its burden of proof to establish the correct food assistance benefits for July 2015 and failed to demonstrate that no supplement was required for that month.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the issuance of FAP benefits supplements for the months of February 2015 through June 2015 and **REVERSED IN PART** with respect to July 2015 and its failure to demonstrate that the correct benefits were issued for that month or that no supplement was properly do the Petitioner.

The Petitioner's Hearing Request with regard to his SDA is hereby **DISMISSED, it is so ORDERED.**

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. The Department shall review and redetermine the Petitioner's FAP allotment allowance for July 2015 and determine the correct issuance amount.
2. The Department shall issue an FAP supplement to the Petitioner, if any is due, in accordance with Department policy.
3. The Department shall provide a written notice to the Petitioner regarding its determination of FAP allowance for July 2015.

LMF/jaf



Lynn M. Ferris

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]

Petitioner

[REDACTED]

cc:

[REDACTED]