



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 5, 2016
MAHS Docket No.: 16-002894
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 May 2, 2016, from Detroit, Michigan. The Petitioner was present represented by [REDACTED], Social Worker from [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's eligibility for FAP benefits?

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 is ongoing FAP recipient.
2. On [REDACTED] the Department sent Petitioner a Notice of Case Action notifying Petitioner that her FAP benefits would be reduced to \$48.00 per month effective [REDACTED].
3. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

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.

Petitioner requested a hearing protesting the amount of her FAP benefits, as she believed \$15.00 per month was insufficient to meet her needs. Petitioner receives SSI in the amount of \$164.00 per month; RSDI in the amount of \$589 per month; and Supplemental State Income in the amount of \$14.00 per month. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she would continue to receive \$48.00 per month effective [REDACTED]. Petitioner has received \$48.00 per month at least since January 2015.

Requests for Hearing are required to be submitted within 90 days of the date the action was taken by the Department. In this case, Petitioner did not request a hearing until [REDACTED], which was slightly more than one year since the Department notified Petitioner on [REDACTED] of the reduction. However, Department policy holds that Supplemental Food Assistance benefit issuances (supplements) **must** be issued when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements are limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits. BAM 406, p. 3.

As previously stated, Petitioner requested the hearing because she believed that her FAP benefit amount was too low. If true, Petitioner would be entitled to supplement for up to the preceding twelve months. As such, the undersigned has jurisdiction to hear the matter.

The Department presented a FAP net income budget showing Petitioner's gross income as \$767.00. Petitioner confirmed that she has a group size of one. Based on

Petitioner's circumstances, she was eligible for the following deductions from her gross income under Department policy:

- a standard deduction of \$154 based on her one-person group size RFT 255 (December 2013), p. 1; BEM 556, (July 2013) p. 3; and
- an excess shelter deduction of \$127.00 which is based on monthly shelter expenses of \$400.00 and a telephone standard of \$33.00. RFT, p. 1.

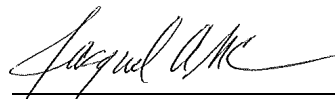
Petitioner confirmed that she did not pay any other utility cost which would have caused further deductions. Using a gross monthly income amount of \$767.00 and taking the appropriate deductions, Petitioner's monthly net income amount is \$486.00. Based on the information available to the Department, it properly determined that Petitioner was entitled to a FAP benefit amount of \$48.00 per month.

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 acted in accordance with policy when it determined that Petitioner was eligible for FAP benefits in the amount of \$48.00 per month.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JM/hw



Jacquelyn A. McClinton

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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]