



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: June 9, 2016
MAHS Docket No.: 16-006286
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 hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department correctly find the Petitioner eligible for Medical Assistance (MA)?

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 was an ongoing recipient of MA. At the hearing, the Department confirmed the Petitioner was eligible on another case number and had ongoing MA without lapse in coverage. Based upon the information provided by the Department, the Petitioner testified he was satisfied with the results and no longer wished to pursue a hearing regarding his MA.
2. The Petitioner applied for FAP in [REDACTED].
3. The Department issued a Notice of Case Action on [REDACTED], finding the Petitioner was eligible for \$ [REDACTED] in FAP benefits effective [REDACTED].

4. The Petitioner's FAP group consists of three members and is a Senior/Disabled/Veteran (SDV) group as the Petitioner is disabled. The Petitioner pays for her heating and has a mortgage, homeowner's insurance expenses and pays property taxes.
5. The Petitioner receives monthly income from Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED]. The Petitioner's daughter also receives disability benefits Supplemental Security Income (SSI) in the amount of \$ [REDACTED]. The Petitioner's daughter does not receive the state quarterly supplement in the amount of \$ [REDACTED] (\$ [REDACTED] monthly). The income amounts received were confirmed by the Petitioner as correct at the hearing except for the quarterly supplement.
6. The Department, when calculating the FAP benefits, used an old shelter expense verification from [REDACTED]. No updated request for verifications regarding housing expenses was completed by the Department at the time of the [REDACTED] application.
7. The Petitioner dropped off his property taxes, heating bill, mortgage statement and homeowner's insurance bill at the Department shortly after filing the paper application. The Petitioner also signed the sign-in book at the front desk where he dropped off the paperwork.
8. The Petitioner requested a timely hearing on [REDACTED].

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, the Petitioner withdrew his hearing request regarding his MA at the hearing on the record as he was satisfied with the documentation provided to him by the Department demonstrating full Medicaid coverage ongoing with no lapse in coverage.

At the hearing, the Department conceded that it improperly calculated the FAP benefits. The Department presented an FAP budget and a Notice of Case Action that showed that it decreased the Petitioner's FAP benefits to \$ [REDACTED] per month. Exhibits 1 and 3.

The Department did not use the correct unearned income. The Department included an additional \$ [REDACTED] supplement to the total unearned income but did not provide any proof that the Petitioner's daughter was receiving the supplement. The Petitioner did confirm the receipt of unearned income from RSDI in the amount of \$ [REDACTED] for himself and his wife and \$ [REDACTED] for his daughter's SSI income. The total unearned income presented by the Department and supported by the evidence was \$ [REDACTED]. Thus, the unearned income presented in the FAP budget is incorrect and is not supported by the evidence presented.

In addition, the Department used a shelter verification from [REDACTED] and presented no evidence that it ever sought verification of shelter expenses and heating expenses. The Petitioner credibly testified that he turned in information regarding his mortgage, property taxes and homeowner's insurance shortly after he filed the application in [REDACTED]. The Department did receive proof from the Petitioner regarding his heating bill; however, the excess shelter deduction calculation provided by the Department at the hearing did not show a heat and utility standard was applied to the Petitioner's case when calculating FAP benefits. Exhibit 3. The Department presented no evidence that would show what case correspondence was received by the Department in its electronic case file.

At the time of the interview for FAP application, the Department is to review and update the application and complete application items not completed when it was filed. The Department is also required to request needed verifications not brought to the interview. The Department presented no evidence regarding the application interview and did not provide a Verification Checklist requesting shelter information be provided by the Petitioner. BAM 115 (July 1, 2016), pp. 16-17. The Petitioner credibly testified that he provided the Department all the shelter information shortly after filing the application leaving it at the front desk where it was date-stamped and where he signed the book. Therefore, based upon the evidence presented by the Department, it is determined that the updated shelter information was received and that the Department must re-process the FAP case and re-determine the correct shelter expenses as of [REDACTED] ongoing.

Based upon the evidence presented, the Department failed to meet its burden of proof to show that it properly processed the Petitioner's [REDACTED] FAP application.

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 processed the Petitioner's FAP application and decrease the benefits to \$ [REDACTED] per month.

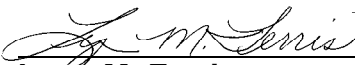
DECISION AND ORDER

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. The Department shall re-process the Petitioner's FAP application and re-calculate the Petitioner's FAP benefits beginning [REDACTED] and process the application in accordance with Department policy using updated shelter expense information.
2. The Department shall issue a FAP supplement to the Petitioner for FAP benefits the Petitioner was otherwise eligible to receive in accordance with Department policy.
3. The Department shall provide written notice to the Petitioner regarding its determination of the correct FAP amount.

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]