



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 29, 2016  
MAHS Docket No.: 16-006711  
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 June 15, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED]

### **ISSUE**

Did the Department properly issue supplements 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 an ongoing FAP recipient.
2. On [REDACTED], Petitioner submitted proof of utility expense.
3. The Department reviewed Petitioner's FAP benefits case to determine if he was entitled to supplements for the previous twelve months.
4. The Department issued FAP benefits in the amount of \$194.00 or supplements for the months of October 2015 through May 2016; except January 2016.

5. The Petitioner believed he was entitled to additional supplements and on [REDACTED] 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.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2015), pp. 1 – 4.

Requests for Hearing are required to be submitted within 90 days of the date the action was taken by the Department. In this case, there was no evidence that the Department issues a Notice of Case Action 90 days prior to Petitioner's Request for Hearing. 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.

On May 16, 2016, Petitioner requested a hearing relating to both his FAP benefits. It is found that the request for hearing constituted a request for lost benefits. The Department testified that in May 2016, Petitioner submitted proof of utility expense. The Department further testified that after receiving the proof of utility expense, it accessed its computer system and was able to determine that Petitioner had been paying a utility expense since 2014. Accordingly, the Department reviewed Petitioner's FAP eligibility to determine whether or not he was entitled to supplements for the previous twelve

months, beginning June 2015. Under the above Department policy, the undersigned is also limited to underissuances within the previous twelve months.

The Department testified that after review, it was determined that Petitioner was not entitled to supplements for June 2015, July 2015, August 2015, and September 2015 due to earned income. The Department further testified that as of October 2015, Petitioner was entitled to FAP supplements. The Department submitted a Benefit Summary Inquiry which showed that Petitioner received either an initial FAP benefit payment amount of \$194 or a supplement to correct the underissuances for each month between October 2015 and May 2016, except January 2016.

The Department was unable to articulate why the supplement had not been issued for January 2016. Further, the Department failed to provide any budgets for June 2015 through September 2015. As such, the undersigned is unable to determine if the Department properly calculated Petitioner's eligibility for FAP benefits during these months.

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 failed to issue supplements to Petitioner from June 2015 through September 2015 and January 2016.

### **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. Recalculate Petitioner's eligibility for FAP benefits for June 2015, July 2015, August 2015, and September 2015 and January 2016;
2. Issue supplements Petitioner was eligible to receive but did not for June 2015, July 2015, August 2015, and September 2015 and January 2016; and
3. Notify Petitioner in writing of its decision.

JM/hw



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**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]

**Petitioner**

[REDACTED]