



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: July 15, 2016
MAHS Docket No.: 16-007689
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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, an in-person hearing was held on July 13, 2016, in Big Rapids, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED] and Assistance Payments Supervisor [REDACTED].

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (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 was an on-going FAP recipient, living in Genesee County.
2. The Department was including the Heat and Utility Allowance (HUA) in his FAP budget when he lived in Genesee County.
3. Petitioner paid extra for air conditioning at the apartment where he was living.
4. Petitioner moved into subsidized housing in Mecosta County, where he pays rent of \$ [REDACTED] per month which includes his utilities. (Exhibit A.)

5. Initially when he moved to Mecosta County the Department included the HUA in his FAP budget (Exhibit B) and awarded him \$ [REDACTED] per month in FAP.
6. Petitioner has income of \$ [REDACTED] per month for Supplemental Security Income and \$ [REDACTED] for Retirement, Survivors, and Disability Income.
7. In a Notice of Case Action dated June 4, 2016 (Exhibit E) the Department informed Petitioner that his FAP would be reduced to \$ [REDACTED] per month after the HUA was eliminated from his FAP budget.
8. The Department received Petitioner's hearing request on June 8, 2016.
9. In a Notice of Case Action dated June 10, 2016, the Department informed Petitioner (Exhibit H) that his FAP would be \$ [REDACTED] per month beginning July 1, 2016, after adjusting his unearned income to reflect a reduction that was made in his SSI to recoup an overpayment by the Social Security Administration.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Department previously incorporated a heat and utility standard into some FAP recipients' budgets. That is no longer provided if the recipient is not paying utilities. Petitioner's utilities are included in his rent expense, and that rent expense is incorporated in his budget. Petitioner did not dispute the income or expenses that were attributed to him in his FAP budget. There is no evidence that there was an incorrect grant computation regarding his FAP benefits.

Petitioner testified that he checked with Genesee County DHHS before he made the move to Big Rapids because he wanted to be sure that his FAP would not change. His testimony regarding what he was told by someone at the Genesee County DHHS is not admissible because it is impossible to ascertain what questions he posed to them, and what responses they gave. The Genesee County DHHS might have given him correct information, and they might have given him incorrect information. This Decision must be based upon the facts that are incontrovertible as presented during the hearing. Petitioner does not dispute the income and expenses used by the Department in his

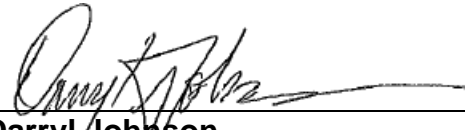
FAP budget. He only disputes the outcome. The outcome is derived through policy, and there is no evidence that the Department erred in applying the policy to this case.

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 Department policy when it determined Petitioner's FAP.

DECISION AND ORDER

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

DJ/mc



Darryl Johnson
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]