



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: September 1, 2016
MAHS Docket No.: 16-010390
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 August 24, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly determine petitioner's FAP benefit allotment between January 2015 and January 2016?

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. Petitioner has been receiving [REDACTED] in FAP benefits for the past one year.
3. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's calculation of her FAP benefit allotment.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 (January 2016), 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 [REDACTED], Petitioner requested a hearing relating to her FAP benefits. It is found that the request for hearing constituted a request for lost benefits. Further, as discussed below, at the hearing, the Department discovered that a loss had occurred in March 2016. As such, it is found that the undersigned has jurisdiction with respect to any loss benefits within the 12 months preceding [REDACTED].

Petitioner receives RSDI income in the amount of [REDACTED] per month. Petitioner has a group size of one. The Department testified that Petitioner's FAP benefits fluctuates based upon expenses which are eligible for a medical deduction. There were no change in income and no medical expenses received during the one year review period, except those submitted in February and March 2016. The Department further testified that Petitioner submitted expenses sufficient for her to receive a medical deduction in February 2016 in the amount of [REDACTED] and March 2016 in the total amount of [REDACTED]. However, the Department testified that the medical expenses were not sufficient to change the amount of FAP benefits received.

The Department determined that Petitioner's total income was [REDACTED]. The Department explained that Petitioner's RSDI income has not been updated in its system in more than one year and therefore it used the previous amount received from RSDI in its budget. When the February medical expense was deducted together with the standard deduction of [REDACTED], Petitioner's net income would have been [REDACTED]. A group size of one with a net income of [REDACTED] is eligible to receive [REDACTED] per month in FAP benefits. RFT 260 (October 2015), p. 10. As such, it is found that the Department properly determined Petitioner's FAP benefits for February 2016.

As previously stated, the Department confirmed receipt of [REDACTED] in medical expenses for March 2016. When the March 2016 medical expenses are deducted together with the standard deduction of [REDACTED] Petitioner's net income would have been [REDACTED]. A group size of one with a net income of [REDACTED] is eligible to receive more than [REDACTED] in FAP benefits. RFT 209, p. 3. Therefore, it is found that the Department failed to properly determine Petitioner's FAP benefits for March 2016.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner was eligible for [REDACTED] in FAP benefits for March 2016.

DECISION AND ORDER

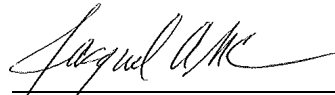
Accordingly, the Department's decision is **REVERSED**.

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 March 2016 only;
2. Issue supplements to Petitioner that she was eligible to receive but did not for March 2016 only; and

3. Notify Petitioner in writing of its decision.

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]

Petitioner

[REDACTED]