



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: September 1, 2016
MAHS Docket No.: 16-010530
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 close Petitioner's FAP benefits effective [REDACTED]?

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 a FAP recipient.
2. On [REDACTED], Petitioner submitted a Redetermination.
3. Petitioner is currently employed, receives [REDACTED] in Social Security income and receives at least [REDACTED] each month in child support payments.

4. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits closed effective [REDACTED].
5. 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.

MA

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (*AHR*). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department sent Petitioner a Health Care Coverage Determination Notice advising Petitioner of its decision to close Petitioner's benefits case for Medical Assistance (MA).

The Department's Health Care Coverage Determination Notice to Petitioner was dated [REDACTED]. However, Petitioner did not file a request for hearing to contest the Department's action until [REDACTED].

Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

FAP

Additionally, the Department is required to periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. BAM 210 (January 2016), p. 1. In this case, Petitioner submitted a Redetermination on [REDACTED]. The Department testified that Petitioner receives [REDACTED] in Social Security income and [REDACTED] in child support income.

Under Department policy, a group's financial eligibility and monthly benefit amount are determined using:

- Actual income (income that was already received).
- Prospected income amounts (not received but expected).

Each source of income is converted to a **standard monthly amount**, unless a full month's income will not be received. BEM 505 (April 2016), p. 1. [Emphasis in the original].

Additionally, to calculate the monthly amount, the Department is to convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

1. Multiply weekly income by 4.3.
2. Multiply amounts received every two weeks by 2.15.
3. Add amounts received twice a month BEM 505, p. 8.

In this case, Petitioner submitted her May 2016 pay stubs. Petitioner received [REDACTED] on [REDACTED] and [REDACTED] on [REDACTED]. When the total of the two paystubs is divided by two and multiplied by 2.15 the total earned income is [REDACTED]. As such, the Department properly used an earned income amount of [REDACTED] and a total income of [REDACTED] when the unearned income is included. The gross income limit for a group size of three is [REDACTED]. Petitioner's gross income exceeds that amount.

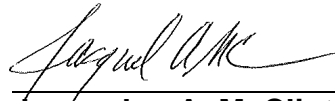
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits, effective [REDACTED], for exceeding the gross income limit.

DECISION AND ORDER

The Request for Hearing relating to Petitioner's MA benefits is **DISMISSED**.

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]

Petitioner

[REDACTED]