



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: December 13, 2016
MAHS Docket No.: 16-016554
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 December 5, 2016, from Detroit, Michigan. The Petitioner was present and represented by [REDACTED], Guardian. Petitioner's grandfather, [REDACTED], also appeared at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly decrease Petitioner's FAP benefits to [REDACTED] per month 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 is an ongoing FAP recipient.
2. Petitioner receives [REDACTED] per month in SSI benefits and [REDACTED] per quarter in State SSI Payments.
3. Petitioner's case was transferred to a new caseworker.

4. The new caseworker discovered the Petitioner's income had not previously been included in determining her eligibility for FAP benefits.
5. After redetermining Petitioner's eligibility for FAP benefits, the Department sent Petitioner a Notice of Case Action on [REDACTED] which notified Petitioner that her FAP benefits would decrease to [REDACTED] per month effective [REDACTED].
6. On [REDACTED], Petitioner's Guardian 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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

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 (July 2016), p. 1. In this case, the Department testified that Petitioner's case was reassigned to a new caseworker. The new caseworker testified that she realized upon receipt of the case that Petitioner's income had not been budgeted in determining her eligibility for FAP benefits. As such, the new caseworker recalculated Petitioner's eligibility for FAP benefits, and on [REDACTED], the Department sent Petitioner a Notice of Case Action which advised Petitioner that her FAP benefits would decrease to [REDACTED] per month effective [REDACTED].

The Department presented a budget in support of the reduction in benefits. The Department testified that Petitioner receives [REDACTED] per month from the Social Security Administration. The Department also indicated that Petitioner receives [REDACTED] per quarter in SSP payments, which it budgets at [REDACTED] per month. Petitioner's Guardian

confirmed that Petitioner receives [REDACTED] in income from the Social Security Administration, but disputed that Petitioner received the [REDACTED] per quarter. The Department was able to state the bank account to which the quarterly payments had been deposited. The Department further testified that the last payment was made in [REDACTED] and that the next payment was scheduled to be made in [REDACTED]

The budget presented by the Department included an unearned income amount of [REDACTED]. When the income from the Social Security Administration is added with the [REDACTED] SSP payment, Petitioner's monthly unearned income amount should have been [REDACTED] per month and not [REDACTED]. As such, it is found that the Department did not properly calculate Petitioner's eligibility for FAP benefits.

DECISION AND ORDER

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 decreased Petitioner's FAP benefits to [REDACTED] per month

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. Redetermine Petitioner's eligibility for FAP benefits effective [REDACTED];
2. Issue supplements the Petitioner was eligible to receive, but did not effective [REDACTED]; 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]