



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 28, 2016
MAHS Docket No.: 16-017233
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, a telephone hearing was held on December 21, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] [REDACTED]

ISSUE

Did the Department properly determine 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. On October 13, 2016, Petitioner submitted an application for FAP (Exhibit 1 Pages 2-14).
2. In her application, Petitioner stated she had started a job on October 6, 2016 (Page 8), working in a coffee shop for 19 hours per week at \$ [REDACTED] per hour.
3. The employer verified her employment (Pages 18-19) and said that she was working 25-30 hours per week, at \$ [REDACTED] per hour, and that she also received tips of \$ [REDACTED] to \$ [REDACTED] per week.

4. In a Notice of Case Action dated November 2, 2016, (Pages 28-31) the Department approved her for \$ [REDACTED] per month of FAP for herself and her child, based upon earned income of \$ [REDACTED] per month.
5. Petitioner testified that she only receives about \$ [REDACTED] per week in tips.
6. Petitioner has no shelter expenses because she is currently living with her sister, but she has a monthly telephone expense.
7. On November 10, 2016, the Department received Petitioner's hearing request, protesting the amount of FAP she was awarded.

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.

In this case, Petitioner reported her employment to the Department. The Employer verified her income. Petitioner testified credibly that the Employer overstated that income. The Department relied upon the information that it had available at the time. BAM 130 (1/1/17) requires a client to provide verification on request. BAM 130 also provides guidance at page 9 as to what to do when there is a discrepancy. "Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source." When Petitioner applied, she reported that she was working 19 hours per week for \$ [REDACTED] per hour. That was just 10 days after she started her job. The Employer reported she was working 25-30 hours per week, at \$ [REDACTED] per hour, and earning \$ [REDACTED] to \$ [REDACTED] per week in tips. If the Department had used her numbers, it would have calculated her income to be \$ [REDACTED] per week, or \$ [REDACTED] per month. Using the numbers provided by the Employer, her income could have been between \$ [REDACTED] per week to \$ [REDACTED] per week. Converting that to a monthly amount (weekly multiplied by 4.3) puts her income somewhere between \$ [REDACTED] and \$ [REDACTED] per month.

While the Department cannot be expected to investigate every minor discrepancy between what an applicant reports and what a collateral source reports, when there is a

discrepancy as substantial as that reflected here, the Department should give the applicant a reasonable opportunity to resolve the discrepancy.

In light of the time that has passed since the wages were verified, Petitioner and the Employer will have more comprehensive wage records that can be used to verify her actual income.

DECISION AND ORDER

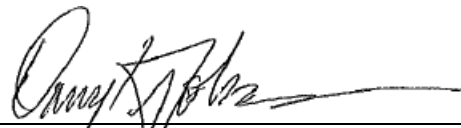
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP.

Accordingly, the Department's decision is MODIFIED. The Department's decision to award Petitioner FAP is affirmed, but the amount is to be recalculated.

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 FAP award, effective November 1, 2016, based upon current earnings records.
2. Provide a supplement to Petitioner if she is found to be eligible.

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]