



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: December 28, 2016
MAHS Docket No.: 16-017680
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 three way telephone hearing was held on December 21, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Petitioner's allotment for 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 is an ongoing FAP recipient.
2. On [REDACTED], Petitioner submitted a Redetermination.
3. In recalculating Petitioner's eligibility for FAP benefits, the Department discovered it was allowing a medical deduction for which Petitioner was not eligible.
4. Beginning [REDACTED] the Department reduced Petitioner's FAP allotment from \$ [REDACTED] per month to \$ [REDACTED] per month.

5. Petitioner filed a Request for hearing disputing the Department's actions.
6. The matter was scheduled for hearing but was not held.
7. The matter was not rescheduled for hearing.
8. As a result of Petitioner filing a Request for Hearing, the Department reviewed Petitioner's case again and discovered that it was also allowing a housing cost of [REDACTED] when Petitioner was only required to pay a [REDACTED] housing cost.
9. The Department again recalculated Petitioner's eligibility for FAP benefits and on [REDACTED], it sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits would be reduced from \$ [REDACTED] per month to \$ [REDACTED] per month effective [REDACTED].
10. 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.

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 filed two separate Requests for Hearing, both disputing her FAP allotment as determined by the Department. On [REDACTED], Petitioner submitted a Redetermination. Upon review of the Redetermination, the Department discovered that it was allowing a medical deduction that Petitioner was not entitled to receive. Petitioner receives \$ [REDACTED] from the Social Security Administration. The Department was allowing a deduction for the Part B Medicare premium but because the payment was being made by the State of Michigan and not Petitioner, it was not an eligible deduction. Once the medical deduction was removed, the Department determined that Petitioner was entitled to receive \$ [REDACTED] per month.

The Department was unable to provide evidence that it sent any notice to Petitioner that her FAP benefits would be reduced to \$ [REDACTED] per month effective [REDACTED]. Petitioner subsequently learned that her benefits had been reduced and requested a hearing. Petitioner testified that she appeared for the hearing as scheduled but stated that the hearing did not take place. Petitioner believed that it was due to a building issue.

The Department testified that as a result of the Request for hearing, it reviewed Petitioner's case and discovered that it was allowing for a \$ [REDACTED] housing cost. The Department indicated that Petitioner resides in subsidized housing and is required to pay \$ [REDACTED] of the \$ [REDACTED] housing cost. Once the excess housing cost was removed, the Department determined that Petitioner was eligible for FAP benefits in the amount of \$ [REDACTED] per month. On [REDACTED] the Department sent Petitioner a Notice of Case Action to advise that her FAP benefits would be reduced to \$ [REDACTED] per month effective [REDACTED]. On the same date, Petitioner filed a Request for Hearing disputing the Department's actions.

Petitioner testified that \$ [REDACTED] per month in FAP benefits was insufficient to meet her needs and that any amount less than that would leave her unable to purchase the food needed to avoid a severe hardship. The Department presented a budget in support of its assertion that Petitioner was eligible for [REDACTED] per month in FAP benefits. The budget presented by the Department did not include the ineligible medical deduction, and included the corrected housing cost of \$ [REDACTED] per month. Petitioner confirmed that she did not pay the Part B Medicare premium and that she is required to pay \$ [REDACTED] in housing costs. Petitioner indicated that her circumstances have not changed since 2013.

As previously stated, Petitioner receives \$ [REDACTED] in unearned income. Based on Claimant's circumstances, she was eligible to receive a standard deduction of \$ [REDACTED] based on her one-person group size. RFT 255, p. 1. (October 2016). Petitioner was also eligible for a shelter deduction in the amount of \$ [REDACTED]. BEM 556, pp. 4-5. (July 2013). When the standard deduction and the shelter deduction are subtracted from Petitioner's income, her net income amount is [REDACTED]. Based on the information available to the Department, and based upon a net income of \$ [REDACTED], it properly determined that Petitioner was entitled to a FAP benefit amount of \$ [REDACTED] per month. RFT 260 (October 2016), p. 10.

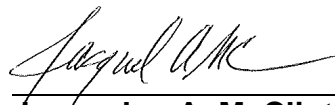
Petitioner argued that she did not receive proper notice of the reduction \$ [REDACTED] to \$ [REDACTED]. While this appears to be true, the remedy would have been to require the Department to redetermine Petitioner's eligibility for FAP benefits and provide her with proper notice, which the Department subsequently did on [REDACTED].

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 acted in accordance with Department policy when it decreased Petitioner's FAP benefits to \$ [REDACTED] per month effective [REDACTED].

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]