



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: March 7, 2016  
MAHS Docket No.: 16-000870  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**HEARING DECISION**

Following the 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 March 3, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor, [REDACTED] and Eligibility Specialist, [REDACTED].

The following exhibits were offered and admitted into evidence:

- Department A--FAP budget prior to the negative action.
- B--FAP budget subsequent to the negative action.
- C--DHS-1605, Notice of Case Action.

Petitioner 1-- various medical bills, income verification and Department notices and forms.

**ISSUE**

Did the Department properly take action to reduce the Petitioner's monthly Food Assistance Program (FAP) allotment?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a recipient of monthly FAP benefits in the amount of \$ [REDACTED]

2. The Petitioner had a \$ [REDACTED] medical deduction in her FAP budget which ended and it was therefore removed. The Petitioner was afforded a remaining medical deduction of \$ [REDACTED] instead.
3. On January 14, 2016, the Department sent the Petitioner a DHS-1605, Notice of Case Action informing the Petitioner that her monthly FAP allotment was reduced to \$16.
4. On January 20, 2016, the Department received the Petitioner's written hearing request protesting the reduction in her monthly FAP 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 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, Bridges Eligibility Manual 554 (2015) pp. 1, 2, provides that medical expenses in excess of \$ [REDACTED] can be counted in FAP budget. Expenses are used from the same calendar month in the month for which benefits are being determined.

In this case, the Petitioner was protesting that she has many medical deductions in excess of \$ [REDACTED]. The Petitioner testified that her insurance premium alone is \$ [REDACTED]. The Petitioner testified that she also has to pay for her Medicare part B and that is \$ [REDACTED]. The Petitioner testified that she also has prescriptions and other medical deductions that have not been included. The Department was asked why it is the Petitioner was not afforded both of those specific deductions and the Department personnel at the hearing had no answer for that question.

Obviously, the Petitioner is not afforded both medical deductions of her insurance premium and her Medicare part B, as those two deductions alone would be in excess of \$ [REDACTED] even after the first \$ [REDACTED] is counted. The Medicare part B is easily verified by the Department's personnel obtaining a computer SOLQ. The Department personnel at the hearing could not testify as to how they arrived at the amount of \$ [REDACTED] for a medical deduction. As such, the Department fails to meet its burden of proving that the Petitioner's eligibility for FAP has been properly determined.

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 took action to reduce the Petitioner's FAP allotment.

**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. Redetermine the Petitioner's eligibility for FAP back to February 1, 2016, and
2. Issue the Petitioner any supplement she may thereafter be due, and
3. Issued the Petitioner a new notice of case action documenting that eligibility determination and the Petitioner will retain the right to request a hearing on the new eligibility determination.



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Susanne E. Harris  
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]

[REDACTED]