



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 26, 2016
MAHS Docket No.: 16-001857
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 April 21, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly process 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. Petitioner was an ongoing recipient of FAP benefits in the amount of \$16.
2. On January 22, 2016, Petitioner submitted a change report on which he indicated that effective January 20, 2016, there was a reduction in his social security benefits due to an overpayment. (Exhibit A, pp. 6-8)
3. On January 22, 2016, Petitioner submitted letters from the Social Security Administration (SSA) which indicated that he will receive \$158 in Retirement, Survivors and Disability Insurance (RSDI) for December 2015 in January 2016, that he will receive \$159 in RSDI for January 2016 in February 2016, and that his

RSDI will be increased to \$1084 for February 2016, which he will receive in March 2016. (Exhibit A, pp. 9-10; Exhibit 1)

4. The Department processed the reported changes and sent Petitioner a Notice of Case Action (Notice) on January 25, 2016, advising him that effective February 1, 2016, his FAP benefits would be increased to \$194. The Notice further informs Petitioner that he is to report when his social security payments go back to normal within ten days of the change. (Exhibit A, pp. 11-14)
5. On February 1, 2016, the Department sent Petitioner a Notice of Case Action advising him that effective March 1, 2016, his FAP benefits were being decreased to \$16. (Exhibit A, pp. 15-18)
6. On February 12, 2016, Petitioner requested a hearing disputing the Department's actions, specifically asserting that because his RSDI benefits were decreased for two months, he should have also received \$194 in FAP benefits for two months. (Exhibit A, p. 3)

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.

RSDI is a federal benefit administered by the SSA that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. The Department counts the gross amount of RSDI as unearned income. BEM 503 (October 2015), p. 28. All countable earned and unearned income available to the client and group must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2015), pp. 1-2. Department policy provides that available income is income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. BEM 505, p.1.

Additionally, clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes in unearned income (like RSDI) must be reported within ten days of receiving the first payment reflecting the change. BAM 105 (July 2015), pp. 10-11. The Department evaluates the following to determine negative action and effective date of change dates: circumstance start/change date; reported on date; date verification was received; and the date the client became aware of the change. For FAP cases, the Department relies on the information contained in BEM 505, Prospective Budgeting/Income Change Processing for policy regarding effective dates for income changes. BAM 220 (January 2016), p. 8.

The Department will complete a new FAP budget when the Department is made aware of or the client reports a change in income that will affect eligibility or benefit level. BEM 505, p. 9. For FAP cases, income decreases that result in a benefit increase must be effective no later than the first allotment issued ten days after the date the change was reported, provided necessary verification was returned. BEM 505, p.10. Department policy provides the following relevant example:

On 10/17, the client reports she will miss one week of work in November due to her son's surgery so she will not receive a paycheck on 11/19. On 10/21, client returns required verifications. Complete a budget to increase November benefits, reflecting zero income for 11/19. Complete another budget for December, using a full month's income since the income change will only affect November.

BEM 505, p. 10. For FAP cases, income increases that result in a benefit decrease, action must be taken on the client's case and notice issued within the Standard of Promptness (Ten calendar days for FAP). BEM 505, p. 11.

In this case, the Department testified that based on the information contained in the change report and the additional verifications submitted on January 22, 2016, it determined that Petitioner's RSDI income was reduced to \$158 for the month of January 2016 and \$159 for the month of February 2016. The Department stated that it completed a new FAP budget and determined that based on the reported date of change, Petitioner was eligible to receive FAP benefits in the amount of \$194 only for the month of February 2016. The Department notified Petitioner of the increase in his FAP allotment through a Notice of Case Action dated January 25, 2016. The Department testified that because it had received sufficient information from Petitioner on January 22, 2016, concerning the increase in the amount of his RSDI benefits for the month of March 2016, it completed a new budget and determined that Petitioner would be eligible for \$16 in FAP benefits for the March 1, 2016, benefit period, ongoing. Petitioner was provided with timely notice of the decrease through a Notice of Case Action dated February 1, 2016.

At the hearing, Petitioner disputed the Department's actions and argued that the Department decreased his FAP allotment effective March 1, 2016 prior to giving him an

opportunity to report the increase in his RSDI for the month of March 2016, within ten days of when he received the payment, which the January 25, 2016, Notice of Case Action instructed him to do. Petitioner asserted that because of this error, he should have received \$194 in FAP benefits for two months, rather than one month. Petitioner further maintained that the Department should not have relied on the verification he provided from SSA on January 22, 2016, to predict his March 2016, RSDI income and FAP benefit allotment. The Department asserted that the decreases and increases in Petitioner's RSDI were processed correctly processed to affect the appropriate FAP benefit month.

Upon further review and based on the testimony provided, as well as the documents presented for review, the Department properly processed Petitioner's January 22, 2016, reported income changes, determined that he was eligible for FAP benefits in the amount of \$194 for the month of February 2016, and properly decreased his FAP allotment to \$16 for the month of March 2016, as the Department had sufficient information to prospectively budget Petitioner's unearned income for the month of March 2016.

Because on January 22, 2016, the Department had verification from SSA that Petitioner's RSDI benefits would be increased to \$1084 in March 2016, and despite Petitioner's assertions to the contrary, the Department was not required to wait until Petitioner actually received the increased RSDI payment on March 16, 2016, and provide him with an additional ten days to report the increase before a new FAP budget was completed.

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 processed Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

ZB/tlf



Zainab Baydoun

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

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