



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: May 27, 2016
MAHS Docket No.: 16-005194
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 May 18, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department properly fail to continue Petitioner's FAP benefits at the amount of \$649.00 per month following her February 16, 2016 Request for Hearing?

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], the Department sent Petitioner a Notice of Case Action notifying her that her benefits would decrease to \$451.00 effective March 1, 2016.
3. On [REDACTED], Petitioner requested a hearing disputing the Department's actions.
4. In the [REDACTED], Petitioner requested that her FAP benefits continue at the amount she was receiving at the time she requested the hearing.

5. At the time Petitioner requested the hearing, she was receiving \$649.00 per month in FAP benefits.
6. A hearing was held on [REDACTED] relating to Petitioner's [REDACTED] Request for Hearing.
7. Petitioner's FAP benefits remained at \$649.00 during the months of February 2016 and March 2016 but decreased to \$490.00 in April 2016.
8. On [REDACTED], a decision was issued relating to Petitioner's [REDACTED] Request for Hearing.
9. On [REDACTED], Petitioner filed a second Request for Hearing disputing the Department's failure to continue her benefits until after the [REDACTED] hearing at a rate of \$649.00 per month.
10. On [REDACTED], the Department certified that decision.

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, a **timely hearing request** is a request received by the department within 10 days of the date the notice of case action was issued. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600 (October 2015), p. 24. Department policy further requires that while waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action. *Id*

In this case, Petitioner testified that she requested a hearing because the Department failed to maintain her benefits at \$649.00 per month following a request for hearing made on [REDACTED]. The [REDACTED] request for hearing was submitted following a Notice of Case Action sent by the Department on [REDACTED] in which

Petitioner was notified that her benefits would decrease to \$451.00 effective [REDACTED].

The Department testified that Petitioner was issued benefits in the amount of \$649.00 in February 2016; \$649.00 in March 2016 and \$490.00 in April 2016. The Department further testified that the decrease in April 2016 was based upon changes in Petitioner's circumstances and that she was notified as to the reason for this change.

The evidence presented at the hearing revealed that the Notice of Case Action which led to the [REDACTED] request for hearing was dated [REDACTED]. Accordingly, Petitioner was required to request a hearing on or before [REDACTED] for her benefits to continue at the same amount prior to the request for hearing. Because Petitioner requested a hearing beyond the 10 days to be considered timely for the continuance of benefits, the Department was under no obligation to continue the benefits at the rate of \$649.00 per month.

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 reduced Petitioner's benefits following her [REDACTED] request for hearing.

DECISION AND ORDER

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]