



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: October 3, 2016
MAHS Docket No.: 16-011046
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 September 29, 2016, from Detroit, Michigan. The Petitioner was present represented by [REDACTED] Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly decrease Petitioner's FAP benefits effective [REDACTED]
[REDACTED]

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 a FAP recipient.
2. The Department received information that Petitioner would begin receiving SSI on [REDACTED].
3. The Department recalculated Petitioner's eligibility for FAP benefits and on [REDACTED] [REDACTED] sent Petitioner a Notice of Case Action advising that his FAP benefits would decrease to [REDACTED] per month effective [REDACTED].

4. On [REDACTED], Petitioner's AHR 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, the Department testified that it received information that Petitioner would begin receiving SSI income in the amount of [REDACTED]. As a result, the Department recalculated Petitioner's eligibility for benefits, and on [REDACTED], sent Petitioner a Notice of Case Action which notified Petitioner that his FAP benefits would decrease to [REDACTED] effective [REDACTED].

Petitioner's AHR testified that on [REDACTED], she submitted a Change Report which notified the Department that Petitioner's Annuity had ended. The Department testified that because of the information contained in the Change Report, it sent Petitioner a VCL on [REDACTED] requesting documentation that the Annuity had ended. The Department acknowledged that there was a delay in processing the change.

Petitioner's AHR testified that the VCL was not received until after the hearing was requested. Petitioner's AHR verified that the VCL was sent to the correct address and indicated that she was not experiencing any issues with her mail. However, the Petitioner's AHR was able to provide specific dates relating to when she submitted documents and when she received documents from the Department. Petitioner's AHR also testified that she keeps very meticulous records and was adamant that she did not receive the VCL prior to September 2016. Petitioner's AHR's testimony is found to be credible. Therefore, it is found that the VCL was not received by Petitioner's AHR prior to the decrease effective [REDACTED]. As such, without an adequate opportunity to verify the requested information, the decrease was improper.

DECISION AND ORDER

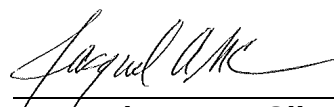
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it decreased Petitioner's FAP benefits effective [REDACTED].

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. Reinstate Petitioner's FAP benefits effective [REDACTED];
2. Process the Change Report received [REDACTED] and recalculate Petitioner's eligibility for FAP benefits;
3. Issue any supplements Petitioner was eligible to receive but did not effective [REDACTED]; and
4. Notify Petitioner and his AHR in writing.

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]