



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: October 12, 2016
MAHS Docket No.: 16-012633
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 October 5, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's 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. On [REDACTED], Petitioner submitted an application for FAP benefits.
2. The Department approved Petitioner for FAP benefits.
3. The Department added two individuals to the group which caused an increase in benefits.
4. Petitioner requested that the two individuals be removed from her group.
5. The Department removed the two individuals from Petitioner's group and determined that Petitioner was eligible for [REDACTED] in FAP benefits.

6. Petitioner filed a Request for Hearing disputing the allotment of FAP benefits.

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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 4.

Requests for Hearing are required to be submitted within 90 days of the date the action was taken by the Department. In this case, there was no evidence that the Department issues a Notice of Case Action 90 days prior to Petitioner's Request for Hearing. However, Department policy holds that Supplemental Food Assistance benefit issuances (supplements) **must** be issued when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements are limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits. BAM 406, p. 3.

On [REDACTED], Petitioner requested a hearing relating to her FAP benefits. It is found that the request for hearing constituted a request for lost benefits. As such, it is found that the undersigned has jurisdiction with respect to any lost benefits from date of application until [REDACTED].

Petitioner's son received RSDI income in the amount of [REDACTED] per month at least from the date of application through [REDACTED]. Petitioner also received

approximately [REDACTED] per month during that same period. There was no earned income for the group. As such, the total unearned income was [REDACTED]. The Department presented a budget in which it calculated Petitioner's unearned income as [REDACTED]. The lower amount could have been due to a slightly lower child support rate. The lower unearned income amount is in Petitioner's favor and will be used in determining whether the Department properly calculated her FAP benefit allotment.

Based on Claimant's circumstances, she was eligible to receive a standard deduction of [REDACTED] based on her one-person group size RFT 255 (October 2015). Because Petitioner's shelter payment was higher than 50 percent of her adjusted gross income, she was not eligible for a shelter deduction. BEM 556 (July 2013), pp. 4-5. Therefore, Petitioner's net income amount was calculated as [REDACTED]. Based on the information available to the Department at the time of application and based upon a net income of [REDACTED], it properly determined that Claimant was entitled to a FAP benefit amount of [REDACTED] per month. RFT 260 (October 2016), p. 12.

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 determined that Petitioner was eligible for FAP benefits in the amount of [REDACTED] per month.

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]