



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: December 22, 2016
MAHS Docket No.: 16-016316
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, an in person hearing was held on December 15, 2016, from Madison Heights, Michigan. The Petitioner was represented by Petitioner. Petitioner's husband, [REDACTED] also appeared at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payment Worker and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly recalculate Petitioner's eligibility for FAP benefits retroactively to April 2015 in accordance with prior administrative decisions?

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 and her husband are ongoing FAP recipients.
2. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions relating to the group's FAP allotment.
3. On [REDACTED], a hearing was held and the Department was ordered to initiate a determination relating to Petitioner's eligibility for FAP benefits effective [REDACTED].

4. On [REDACTED], Petitioner filed a second Request for Hearing alleging that the recalculation of FAP benefits was incorrect.
5. On [REDACTED], a hearing was held and the Department was ordered to recalculate Petitioner's eligibility for FAP benefits retroactively to [REDACTED].
6. On [REDACTED], Petitioner filed a third Request for Hearing alleging that the Department failed to follow the prior two administrative decisions. The third Request for Hearing is the subject of this 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, the local office has **10** days from the date the decision was mailed from MAHS to complete the DHS-1843, Administrative Hearing Order Certification, which certifies compliance. BAM 600 (October 2016), p. 10. In this case, Petitioner alleged that the Department failed to act in accordance with prior administrative decisions issued on [REDACTED] and [REDACTED]. Both decisions ordered the Department to recalculate Petitioner's eligibility for FAP benefits retroactively to April 2015.

The Department provided a benefit issuance inquiry which revealed that Petitioner was given supplements for November 2015 through May 2016. It should be noted that the benefit issuance summary appeared to show more than one month in which the group received more than the allowable maximum amount of FAP benefits for a group size of two which was \$[REDACTED]. Petitioner has varying medical expenses which cause a fluctuation in the amount of FAP benefits received.

In the initial application in 2015, Petitioner's husband indicated that the group pays \$[REDACTED] in rent but also wrote in capital letters the words "NO PROOF." Proof of shelter was specifically requested on the application. The Department did not provide Petitioner with any supplements from April 2015 through October 2015 and for June 2016 and July 2016. The Department was unable to state whether Petitioner was or was not eligible for supplements. It appears that the Department did not budget any

shelter expenses for the group, based upon the application indicating that there was no proof of shelter. However, the Department was unable to state definitely whether or not Petitioner later provided proof of shelter, given that it issued supplements beginning November 2015. As such, the undersigned is unable to determine whether the Department properly recalculated Petitioner's eligibility for FAP benefits for the months of April 2015 through October 2015 and for June 2016 and July 2016.

DECISION AND ORDER

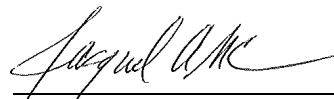
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in processing prior administrative decisions relating to the recalculating of Petitioner's FAP benefits retroactively to April 2015.

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. Recalculate Petitioner's eligibility for FAP benefits for April 2015 through October 2015 and for June 2016 and July 2016;
2. Issue any supplements Petitioner was eligible to receive but did not for April 2015 through October 2015 and for June 2016 and July 2016; and
3. Notify Petitioner in writing of its decision and if the group is not entitled to FAP supplements for any of the aforementioned months, the Department **MUST** state in its writing why Petitioner is not eligible for FAP benefits for any given month.

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]

Authorized Hearing Rep.

[REDACTED]