



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 19, 2016
MAHS Docket No.: 16-016587
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 December 7, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED] [REDACTED]

ISSUE

Did the Department properly determine 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. On October 6, 2016, the Department issued a Notice of Case Action (Exhibit 1 Pages 9-13) informing Petitioner that she would receive \$ [REDACTED] per month in FAP beginning November 1, 2016.
2. On October 27, 2016, the Department issued a Notice of Case Action (Exhibit 1 Pages 4-7) informing Petitioner that she would receive \$ [REDACTED] per month in FAP beginning December 1, 2016.
3. The FAP award was premised upon Petitioner having earned income of \$ [REDACTED] and unearned income of \$ [REDACTED] for her household.

4. Petitioner works at an on-call job as a Certified Nurse's Aid, and she can go for months at a time without working. Her income is very sporadic and unpredictable.
5. On October 27, 2016, the Department received Petitioner's hearing request, protesting the FAP award.

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.

In this case, the Department acknowledged that Petitioner's earned income is based upon an erroneous finding that her income is regular and predictable. BEM (7/1/16) p. 10 instructs the Department regarding irregular income:

Irregular Income

For irregular income, determine the standard monthly amount by adding the amounts entered together and dividing by the number of months used.

Bridges will convert or average income automatically, when appropriate, based on the information you enter about the income.

The Department did not consider the irregular nature of her income when they calculated her FAP award. When Petitioner works even a few hours in a day, she is paid for that day. Her pay "stub" does not reflect a year-to-date amount that can be used to calculate her income over a period of time. It will be necessary to obtain verification from the Employer to determine how much her income has been, and over what period of time.

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 considered Petitioner's income to be regular when preparing her FAP budget.

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

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. Obtain verification of Petitioner's actual earned income and redetermine her FAP award as of November 1, 2016.
2. Provide Petitioner with a supplement if she is found to be eligible.

DJ/mc



Darryl Johnson
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]

Petitioner

[REDACTED]