



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: January 20, 2017  
MAHS Docket No.: 16-017747  
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 January 3, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Supervisor. [REDACTED] appeared as an observer on behalf of the Department.

### **ISSUE**

Did the Department properly provide supplements to Petitioner 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 is an ongoing FAP recipient.
2. Petitioner had been placed in non-compliance with the Office of Child Support (OCS) but was placed back into compliance on [REDACTED].
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits would decrease to [REDACTED] per month effective [REDACTED] for failure to comply with the OCS.
4. On [REDACTED], Petitioner 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

It should be noted that Petitioner filed a Request for Hearing disputing the Department's actions relating to FIP, FAP and CDC benefits. Petitioner inadvertently checked the box correlating to SDA benefits as well.

### **CDC/SDA**

The Department testified that it had no record of an application for CDC or SDA benefits. Because there is no CDC or SDA application, there is no issue for the undersigned to resolve and as such, that portion of Petitioner's Request for Hearing is **DISMISSED**.

**FIP**

The Department further testified that the last application it had for FIP benefits was October 22, 2015 and that a Notice of Case Action was sent on the same date denying Petitioner's application for FIP benefits. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department sent Petitioner a Notice of Case Action on [REDACTED], which notified Petitioner that her application for FIP benefits had been denied. Petitioner did not request a hearing relating to the denial of her FIP application until [REDACTED], which was beyond the 90 day period to request a hearing. Accordingly, Petitioner's hearing request relating to FIP benefits was not timely filed within ninety days of the denial and is, therefore, **DISMISSED** for lack of jurisdiction.

**FAP**

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.

In this case, it appears that the Department performed a review of Petitioner's case and determined that she complied with the OCS as of [REDACTED] but had not received the proper FAP allotment from [REDACTED]. Because the Department did not specifically articulate the date it learned of the error, the undersigned will use the date of the hearing request as the basis to review the prior twelve months FAP allotments issued to Petitioner.

The Department confirmed that upon discovery that Petitioner was entitled to a supplement for its failure to remove the non-compliance status from Petitioner's case, it issued a Help Desk ticket. The Department testified that the issue had been reviewed and it was determined that Petitioner was entitled to a supplement of \$ [REDACTED] in FAP benefits for each month beginning [REDACTED] and continuing through [REDACTED], [REDACTED]. The Department indicated it certified the supplements while the hearing was in process. The Department confirmed that because the supplements had been certified during the hearing, Petitioner would actually receive the supplements within a day or two of the hearing. Prior to the supplement, Petitioner received \$ [REDACTED] per month in FAP benefits.

The [REDACTED] Notice of Case Action indicated that Petitioner's benefits would decrease to \$ [REDACTED] beginning [REDACTED]. The Department was unable to articulate why it did not issue supplements to Petitioner beginning [REDACTED]. As such, it is found that Petitioner is entitled to receive FAP supplements from [REDACTED].

### **DECISION AND ORDER**

Petitioner's Request for Hearing for FIP, CDC and SDA benefits is **DISMISSED** for lack of jurisdiction.

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 policy when it failed to provide Petitioner with the correct FAP allotment from [REDACTED].

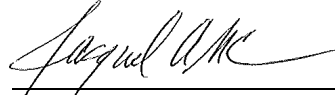
Accordingly, the Department's decision is **REVERSED**.

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. Issue FAP supplement Petitioner was eligible to receive but did not effective [REDACTED]; and

2. Notify Petitioner of its decision in writing.

JM/hw



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**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]

**Department Representative**

[REDACTED]

**Petitioner**

[REDACTED]