



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.: 16-018273  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **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 11, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Hearing Facilitator [REDACTED]. Department's Exhibit A, pages 1-19 was admitted into evidence. On January 12, 2017, Department's Exhibit A, pages 20-36 was admitted into evidence.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on September 17 & 20, 2016?

### **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 an ongoing recipient of Food Assistance Program (FAP) benefits. Her Food Assistance Program (FAP) benefit group consisted of five persons.
2. On September 14, 2016, Lavell Gray, one of Petitioner's Food Assistance Program (FAP) benefit group members, was determined eligible to receive \$ [REDACTED] per month in Social Security Administration Supplemental Security Income (SSI) payments.
3. On September 17, 2016, Petitioner's Food Assistance Program (FAP) financial eligibility budget was updated. Petitioner was sent a Notice of Case Action (DHHS-

1605) which stated her Food Assistance Program (FAP) benefits were being reduced to \$ [REDACTED] per month beginning October 1, 2016.

4. On September 20, 2016, Petitioner was sent a Notice of Case Action (DHHS-1605) which stated her Food Assistance Program (FAP) benefits were being reduced to \$ [REDACTED] per month beginning November 1, 2016.
5. On November 14, 2016, the Lansing Housing Commission sent Petitioner a Rent Change Notice. The notice was sent to [REDACTED] and states that the changes described on the notice become effective October 12, 2016. Department Exhibit A page 29.
6. On November 29, 2016, Petitioner submitted a hearing request. In the request Petitioner states that she had an income increase on September 24, 2016 which caused her rent to increase so she wants her Food Assistance Program (FAP) benefits for October and November that are owed to her to be reinstated. Petitioner submitted the November 14, 2016 Rent Change Notice along with her hearing request.

### **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.

The Food Assistance Program (FAP) financial eligibility budgets used for the Department's September eligibility determination include the shelter expenses Petitioner verified for [REDACTED]. Petitioner wishes for the increased shelter expenses for 4124 Heathgate to be retroactively substituted into her October and November Food Assistance Program (FAP) financial eligibility budgets.

Petitioner testified that she was not given notice of the change to her rent expense until November 14, 2016, in the form of the Rent Change Notice. All the evidence in this record indicates that the Department was not made aware of Petitioner's increased shelter expense until November 29, 2016. With regard to reported, Food Assistance Program (FAP) expenses, all relevant Department policy addresses the time limits imposed on the Department to act on the changes. (Bridges Administration Manual (BAM) 220 Case Actions) In cases where the Department has been provided change

information and not acted on it timely, it would be appropriate to order the Department to recalculate past eligibility using the reported change information. However, there is nothing in Department policy that provides for retroactive application of Food Assistance Program (FAP) expenses previous to the point at which the Department is provided with the change information.

It appears that the actions of the Lansing Housing Commission may have prevented Petitioner from reporting the shelter change in sufficient time to impact her October November Food Assistance Program (FAP) eligibility. However, this court has no jurisdiction or authority over the Lansing Housing Commission. Neither is there any authority or jurisdiction to make exceptions to MDHHS policy or to craft equitable remedies.

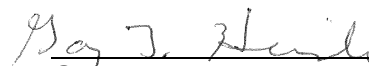
Within the authority and jurisdiction granted to this court by the Director of MDHHS, Petitioner's Food Assistance Program (FAP) eligibility calculations of September 17 & 20, 2016 were reviewed. The income amounts used in the budgets were verified and Petitioner did not dispute those amounts. The only expense disputed is Petitioner's shelter expense and that cannot be changed.

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 Petitioner's Food Assistance Program (FAP) eligibility on September 17 & 20, 2016.

**DECISION AND ORDER**

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

GH/nr

  
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Gary Heisler  
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]