



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: January 24, 2017
MAHS Docket No.: 16-018811
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 18, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's group size concerning Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. As of December 2016, Petitioner was a member of an 8-person household, which included Petitioner's 13 year-old daughter.
3. On [REDACTED], MDHHS determined Petitioner to be eligible for [REDACTED] in FAP benefits, effective December 2016, in part, based on a group size of 7 persons, which did not include Petitioner's 13 year-old daughter.
4. On [REDACTED], Petitioner requested a hearing to dispute FAP group size for December 2016.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute FAP eligibility. Petitioner's spouse's testimony indicated the only dispute concerned FAP group size for December 2016. Petitioner's spouse contended MDHHS should have factored a group size of 8 persons in determining FAP benefits.

[The MDHHS database...] will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (October 2015), p. 1. Food Assistance Program group composition is established by determining all of the following (see Id.): who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation.

MDHHS presented a Notice of Case Action (Exhibit 1, p. 1) dated [REDACTED]. The notice stated MDHHS factored a FAP benefit group size of 7 persons when determining Petitioner's FAP eligibility for December 2016. It was not disputed that MDHHS failed to factor Petitioner's 13 year-old daughter in the determination.

MDHHS testimony essentially conceded Petitioner's FAP eligibility for December 2016 was incorrectly calculated. MDHHS testimony further conceded that Petitioner's 13-year-old daughter was incorrectly added to a different case number. MDHHS testified that they are working to resolve their error, but have not yet fixed the problem.

It is found MDHHS improperly excluded Petitioner's 13 year-old daughter from Petitioner's FAP benefit group for December 2016. MDHHS will be ordered to redetermine Petitioner's FAP eligibility using the proper group size.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility, effective December 2016, by including Petitioner's previously excluded 13-year-old daughter; and
- (2) Issue a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



CG/hw

Christian Gardocki
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]