



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: February 8, 2017
MAHS Docket No.: 16-019297
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 30, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly decrease Petitioner's FAP benefits 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's housing expense and earned income increased.
3. The Department redetermined Petitioner's eligibility for FAP benefits and on [REDACTED] 6, it sent Petitioner a Notice of Case Action which informed Petitioner that her FAP benefits would decrease to [REDACTED] per month effective [REDACTED].

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 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.

Under Department policy, countable earned and unearned income is used to determine eligibility. BEM 550 (January 2017), p 1. In this case, the Department testified that it received information that Petitioner's housing expense and earned income had increased. The Department further testified that as a result, it redetermined Petitioner's eligibility for FAP benefits. On [REDACTED] the Department sent Petitioner a Notice of Case Action which indicated that her FAP benefits would decrease to [REDACTED] per month.

In support of its position, the Department presented a budget relating to Petitioner's FAP eligibility. The Department stated that it calculated [REDACTED] per month in unearned income received by Petitioner's daughter. The Department testified that prior to the start of the hearing, it confirmed with the Social Security Administration that Petitioner's daughter was no longer receiving [REDACTED] per month in unearned income. Additionally, the budget presented by the Department indicated that Petitioner was entitled to [REDACTED] per month but the Notice of Case Action indicated that Petitioner was entitled to [REDACTED]. The Department was unable to explain the discrepancy.

Lastly, the Department indicated that Petitioner provided evidence that she has a monthly dental expense in the amount of [REDACTED] per month. The Department was uncertain if the dental expense was eligible for consideration of an ongoing medical deduction. Accordingly, it is found that the Department did not properly determine Petitioner's eligibility for FAP benefits.

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

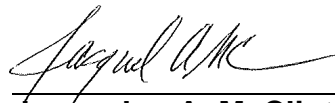
act in accordance with Department policy when it decreased Petitioner's FAP benefits to [REDACTED] per month effective [REDACTED]

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. Redetermine Petitioner's eligibility for FAP benefits effective [REDACTED];
2. Issue supplements Petitioner was eligible to receive but did not effective [REDACTED]; and
3. Notify Petitioner in writing of its decision.

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]