



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: March 31, 2017
MAHS Docket No.: 17-001245
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 March 1, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED]

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2016?

Did the Department properly close Petitioner's FAP benefits effective [REDACTED] due to excess income?

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 recipient of FAP benefits.
2. Petitioner's FAP benefits were reduced from [REDACTED] per month to [REDACTED] per month effective [REDACTED].
3. On [REDACTED], the Department sent Petitioner a Redetermination which was required to be completed and returned on or before [REDACTED].

4. Petitioner returned the Redetermination on [REDACTED].
5. On [REDACTED], the Department sent Petitioner a Verification Checklist requesting specific information be returned on or before [REDACTED].
6. On [REDACTED], the Department closed Petitioner's FAP case due to failure to return requested verifications.
7. 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.

FIP/CDC

The hearing was requested to dispute the Department's action taken with respect to the FIP/CDC benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood the actions taken by the Department and/or did not wish to proceed with the hearing. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

FAP

Additionally, requests for Hearing are required to be submitted within 90 days of the date the action was taken by the Department. In this case, there was no evidence that the Department issues a Notice of Case Action 90 days prior to Petitioner's Request for Hearing. However, 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.

The Department testified that Petitioner verbally requested a hearing regarding her FAP benefits. The FAP is the only program in which clients are allowed to make a verbal request. Further, Petitioner's request for hearing was submitted on [REDACTED], which was prior to the closure on [REDACTED]. Typically, jurisdiction only lies with matter on or prior to the date of hearing. However, as stated above supplements may be ordered for the prior twelve months if the local office discovered that a loss has occurred. During the course of the hearing, the Department discover that Petitioner's FAP benefits were closed in error and as such, supplements may be appropriate. Accordingly, it is found that the undersigned has jurisdiction regarding both the reduction in FAP benefits and the closure.

In this case, the Department acknowledged that Petitioner's FAP benefits were reduced in error effective [REDACTED]. The Department testified that prior to the closure, it budgeted a day care expense for Petitioner in the amount of \$ [REDACTED]. However, the Department indicated that for some unknown reason, it reduced Petitioner's day care expense to approximately [REDACTED]. Petitioner confirmed that she has not had a day care expense for less than \$ [REDACTED] in 2016. Therefore, it is found that the Department improperly reduced Petitioner's FAP benefits effective [REDACTED].

Regarding the closure, the Department acknowledged that it closed Petitioner's FAP case in error effective [REDACTED]. The Department testified that for some unknown reason, it removed Petitioner's day care expense all together, which resulted in the closure. As previously stated, Petitioner has an ongoing day care expense. Therefore it is found that the Department improperly closed Petitioner's FAP benefits effective [REDACTED].

DECISION AND ORDER

Petitioner's request to withdraw her hearing request related to FIP and CDC benefits is granted and the hearing request for FIP and CDC benefits is hereby **DISMISSED**.

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 effective [REDACTED]. It is further found that the Department improperly closed Petitioner's FAP benefits 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. Reinstate Petitioner's FAP benefits for the month of February 2017;
2. Redetermine Petitioner's eligibility for FAP benefits effective [REDACTED].
3. Issue supplements Petitioner was eligible to receive but did not effective [REDACTED];
4. 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]