



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.: 17-002524
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 22, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's FAP allotment effective July 1, 2016 and effective [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 recipient of FAP benefits.
2. Petitioner's daughter has been receiving RSDI income since 2014.
3. Petitioner began receiving SSI, SSD, RSDI and SSP effective June 2016.
4. 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].

5. Due to cost of living increases and changes in the allowable deduction amounts, the Department sent Petitioner a Notice of Case Action on [REDACTED], which informed Petitioner that her FAP benefits would decrease to \$ [REDACTED] per month effective [REDACTED].
6. [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.

[REDACTED], FAP benefits

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4.

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.

On [REDACTED] Petitioner requested a hearing relating to her FAP allotment amount back to July 2016. The loss occurred less than twelve months prior to the request for hearing and is considered Petitioner's request to contest the negative action which resulted in the loss. As such, it is found that the undersigned has jurisdiction with respect to any lost benefits within the 12 months preceding [REDACTED].

In this case, Petitioner began receiving unearned income in June 2016. As a result, the Department redetermined Petitioner's eligibility for FAP benefits. The Department submitted a budget in support of its position that it properly determined Petitioner's eligibility for FAP benefits effective [REDACTED].

In July 2016, Petitioner's group, which consisted of her and her daughter, received [REDACTED] in unearned income. The Department provided evidence to show that Petitioner received [REDACTED] in unearned income and her daughter received \$ [REDACTED] in unearned income for a total of \$ [REDACTED]. The Department budgeted \$ [REDACTED] in unearned income from the group. The \$ [REDACTED] is favorable to the Petitioner and will be used in determining Petitioner's eligibility for FAP benefits. Based on Petitioner's circumstances, Petitioner was eligible to receive a standard deduction of \$ [REDACTED] based on her two-person group size. RFT 255 (July 2016), p. 1. Petitioner was also eligible to receive a shelter deduction in the amount of \$ [REDACTED] per month. BEM 556. (July 2013). When the standard deduction and the shelter deduction are subtracted from Petitioner's income, the net income amount is \$ [REDACTED].

On [REDACTED], the Department sent Petitioner a Notice of Case Action, which notified her that her FAP benefits would decrease to \$ [REDACTED] monthly effective [REDACTED]. Based on the information available to the Department, and based upon a net income of \$ [REDACTED] it properly determined that Petitioner was entitled to a FAP benefit amount of \$ [REDACTED] per month. RFT 260 (October 2015), p. 12.

March 1, 2017, FAP benefits

In this case, Petitioner and her daughter's cost of living increase changed the unearned income amount from \$ [REDACTED] to [REDACTED]. The Department policy also changed as it relates to the allowable standard deduction from \$ [REDACTED] to \$ [REDACTED] per month. As a result, Petitioner's FAP allotment decreased. The Department submitted a budget in support of its position that it properly determined Petitioner's eligibility for FAP benefits effective [REDACTED]. Based on Petitioner's circumstances, Petitioner was eligible to receive a standard deduction of \$ [REDACTED] based on her two-person group size. RFT 255, p. 1. (October 2016). Petitioner was also eligible to receive a shelter deduction in the amount of \$ [REDACTED] per month. BEM 556. (July 2013). When the standard deduction and the shelter deduction are subtracted from Petitioner's income, the net income amount is \$ [REDACTED].

On [REDACTED], the Department sent Petitioner a Notice of Case Action, which notified her that her FAP benefits would decrease to [REDACTED] monthly effective [REDACTED]. [REDACTED] Based on the information available to the Department, and based upon a net

income of \$ [REDACTED] it properly determined that Petitioner was entitled to a FAP benefit amount of \$ [REDACTED] per month. RFT 260 (October 2016), p. 24.

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 acted in accordance with Department policy when it determined Petitioner was eligible to receive [REDACTED] in FAP benefits effective [REDACTED], and when it determined that Petitioner was eligible to receive \$ [REDACTED] in FAP benefits effective [REDACTED].

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

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]