



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: June 5, 2017
MAHS Docket No.: 17-002465
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, an in person hearing was conducted on April 19, 2017, in Newaygo, Michigan. Petitioner was represented by himself and his spouse, [REDACTED]. The Department was represented by Family Independence Specialist [REDACTED] and Family Independence Manager [REDACTED].

ISSUE

Did the Department properly determine Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) eligibility on February 7, 2017?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 9, 2017, Petitioner submitted an application for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.
2. On January 20, 2017, Petitioner was sent a Verification Checklist (DHS-3503) requesting verification of [REDACTED] self-employment income. [REDACTED] delivers newspapers. The Verification Checklist (DHS-3503) requested that: Recent business receipts to date; Recent accounting or other business records to date; or Recent income tax return be submitted as verification of the self-employment income. No self-employment expense forms were sent with the Verification Checklist (DHS-3503). The verifications were due on January 30, 2017.

3. On February 7, 2017, Petitioner was sent a Notice of Case Action (DHS-1605) which stated he was eligible for \$ [REDACTED] per month of Family Independence Program (FIP) benefits, \$ [REDACTED] of Food Assistance Program (FAP) benefits for January 9, 2017 through January 31, 2017 and \$ [REDACTED] per month of Food Assistance Program (FAP) benefits from February 1, 2017 ongoing. The Department used \$ [REDACTED] of gross self-employment income in the Food Assistance Program (FAP) financial eligibility budget.
4. On February 7, 2017, Petitioner submitted copies of 2015 income tax returns which included the Form 1040 and Schedule C Profit or Loss From Business.
5. On February 13, 2017, Petitioner made a verbal hearing request regarding the FAP income budgeted.
6. On February 17, 2017, Petitioner submitted a written hearing request.
7. On February 22, 2017, the Department sent Petitioner a Verification Checklist (DHS-3503) including self-employment expense forms.
8. On April 19, 2017 this hearing was conducted.
9. On April 20, 2017, the Department removed Sheri's self-employment income from the Food Assistance Program (FAP) financial eligibility budget, sent a Verification Checklist (DHS-3503) requesting [REDACTED] paystubs from January 9, 2017 through April 20, 2017 and a Verification of Employment (DHS-38) form. The Department based this action on a Michigan Administrative Hearing System (MAHS) decision dated May 8, 2012, under Register Number 201238175. Classification of [REDACTED] earned income was an issue in that case.

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 Department's change, made after this hearing, will impact Petitioner's benefit eligibility for the same time period as this hearing request was submitted on. The

change is considered an admission by the Department that the February 7, 2017 eligibility determination was incorrect.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) eligibility on February 7, 2017.

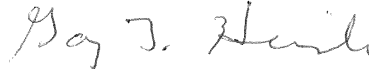
DECISION AND ORDER

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. Re-register Petitioner's January 9, 2017 application and process it in accordance with Department policy to include issuing a current Notice of Case Action (DHS-1605)

GH/nr



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]