



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: [REDACTED] June 26, 2017
MAHS Docket No.: 17-006135
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 [REDACTED], from [REDACTED], Michigan. Petitioner was represented by his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager; and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

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 [REDACTED], Petitioner applied for FAP and MA.
2. On [REDACTED], Petitioner provided written verification that his wife receives \$ [REDACTED] per month in Social Security benefits. Department Exhibit 1, pg. 1.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action that he was eligible for FAP for [REDACTED], through [REDACTED], in the amount of \$ [REDACTED] and for the month of [REDACTED], in the amount of \$ [REDACTED]. The Notice was not included in the hearing packet for this Administrative Law Judge to review.

4. On [REDACTED], Petitioner submitted self-employment income for [REDACTED], of \$ [REDACTED]; [REDACTED], of \$ [REDACTED]; and [REDACTED], of \$ [REDACTED]. Department Exhibit 2, pgs. 1-2; Department Exhibit 3, pgs. 1-2; Department Exhibit 4, pgs. 1-2.
5. On [REDACTED], Petitioner submitted written verification that he was no longer employed as the [REDACTED] with the [REDACTED], due termination effective [REDACTED]. Department Exhibit 4, pg. 3.
6. On [REDACTED], the Department received a hearing request from Petitioner, contesting the Department's negative action.
7. On [REDACTED], Petitioner's wife withdrew on the record for the MA portion of the hearing and the Department accepted her withdrawal.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, on [REDACTED], Petitioner applied for FAP and MA. On [REDACTED], Petitioner provided written verification that his wife receives \$ [REDACTED] per month in Social Security benefits. Department Exhibit 1, pg. 1. On [REDACTED], the Department sent Petitioner a Notice of Case Action that he was eligible for FAP for [REDACTED], through [REDACTED], in the amount of \$ [REDACTED] and for the month of [REDACTED], in the amount of \$ [REDACTED]. The Notice was not included in the hearing packet for this Administrative Law Judge to review. On [REDACTED], Petitioner submitted self-employment income of [REDACTED], of \$ [REDACTED]; [REDACTED], of \$ [REDACTED]; and [REDACTED], of \$ [REDACTED]. Department Exhibit 2, pgs. 1-2; Department Exhibit 3, pgs. 1-2; Department Exhibit 4,

pgs. 1-2. On [REDACTED], Petitioner submitted written verification that he was no longer employed as the [REDACTED] with the [REDACTED], due termination effective [REDACTED]. Department Exhibit 4, pg. 3. On [REDACTED], the Department received a hearing request from Petitioner, contesting the Department's negative action. On [REDACTED], Petitioner's wife withdrew on the record for the MA portion of the hearing and the Department accepted her withdrawal. BEM 500, 502, 503, 550-556. BAM 115, 130.

During the hearing, Petitioner's wife was concerned about the FAP benefits. She stated that her husband had \$ [REDACTED] income for self-employment in [REDACTED], but that is not completely correct because his employment was terminated on [REDACTED]. Petitioner worked and got paid from [REDACTED], through [REDACTED]. In addition, he started a new job on [REDACTED], according to Petitioner's wife.

Since Petitioner is self-employed, Department policy allows them to average the previous 3 months of income to determine the average income for determining FAP eligibility. The Department used an average of [REDACTED], of \$ [REDACTED]; [REDACTED], of \$ [REDACTED]; and [REDACTED], of \$ [REDACTED].

The Department miscounted Petitioner's wife Social Security income of \$ [REDACTED] for \$ [REDACTED]. Petitioner had unearned income of \$ [REDACTED] and earned income of \$ [REDACTED]. After deductions from his gross income, of \$ [REDACTED], of \$ [REDACTED] standard deduction for an adjusted gross income of \$ [REDACTED]. Petitioner was given a total shelter deduction of \$ [REDACTED], resulting from a housing expense of \$ [REDACTED] and a telephone standard of \$ [REDACTED] 0. Petitioner was given an adjusted excess shelter deduction of \$ [REDACTED], with a total shelter deduction of \$ [REDACTED], minus 50% of adjusted gross income of \$ [REDACTED]. Petitioner had a net income of \$ [REDACTED] which was the adjusted gross income of \$ [REDACTED] minus the excess shelter deduction of \$ [REDACTED]. With a net income of \$ [REDACTED], Petitioner qualified with a household group size of 2 for a maximum benefit of \$ [REDACTED] plus \$ [REDACTED] in economic recovery minus 30% of net income of \$ [REDACTED], resulting in a net benefit amount of \$ [REDACTED] due to prorated benefit of 27 days. Department Exhibit 7, pgs. 1-4. For the month of [REDACTED], Petitioner qualified for a full month of benefits of \$ [REDACTED]. Department Exhibit 8, pgs. 1-4.

This Administrative Law Judge finds that the Department did not properly determine Petitioner's FAP benefits for [REDACTED] and [REDACTED], because they did not have the correct amount for Petitioner's wife Social Security benefits of \$ [REDACTED] not the amount used of \$ [REDACTED].

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 did not use the proper amount of Social Security benefits of \$ [REDACTED] when calculating FAP benefits.

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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to his FAP application dated [REDACTED], using the amount of \$ [REDACTED] in Social Security benefits, not \$ [REDACTED].

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits he may be eligible to receive, if any.

CF/bb



Carmen G. Fahie
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]

Authorized Hearing Rep.

[REDACTED]