



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 7, 2017
MAHS Docket No.: 17-006973
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 42 CFR 438.400 to 438.424; 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 Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) 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. The Petitioner was an ongoing recipient of FAP benefits.
2. The Petitioner completed a redetermination dated [REDACTED], on [REDACTED] Exhibit A.
3. At redetermination, the Department reviewed the Petitioner's FAP benefits effective [REDACTED], and reduced the benefits due to income. The Petitioner's FAP group consists of two members. Exhibit E.
4. The Petitioner did not verify her rent with the Department; and thus, it was not included in the FAP benefit calculation.

5. The Department did not conduct an interview at redetermination and did not seek verification of income from Petitioner.
6. The Petitioner receives \$ [REDACTED] monthly from daycare income as a CDC provider.
7. The Petitioner is a CDC provider and was not receiving her CDC benefits timely and received a lump-sum payment in [REDACTED].
8. The Petitioner requested a timely hearing on [REDACTED], protesting 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.

In this case, the Department reduced the Petitioner's FAP benefits after it determined and included Petitioner's income from daycare services she performed as a CDC provider. Prior to including the income, the Department included no income and paid the Petitioner \$ [REDACTED] in FAP benefits. Exhibit D. The Department presented another FAP budget which used income in the amount of \$ [REDACTED] based on [REDACTED] income from the consolidated inquiry. The Department during the redetermination did not verify the Petitioner's income and used accumulated back pay for CDC services provided by the Petitioner without inquiry regarding what months the income covered. Income covering several months would normally require the Department to average the income over the several months. The Petitioner credibly testified that the income used by the Department received in [REDACTED] was a payment for several months of CDC services she provided. The Petitioner also credibly testified that her caseworker never discussed her income or conducted an interview during the redetermination.

At the hearing, the Department conceded that the income used to calculate the FAP benefits as determined by the Department was incorrect. The Department's budget as submitted was not demonstrated to be correct. Because the Department did not interview the Petitioner during the redetermination, the Department did not comply with Department policy and failed to verify the Petitioner's income. Thus, it could not be determined at the hearing what the income was. In addition, the income used by the Department based upon the consolidated inquiry covered several months and should

have been averaged. Department policy requires the following when determining income:

Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible.

To prospect income, you will need to know:

- The type of income and the frequency it is received (such as, weekly).
- The day(s) of the week paid.
- The date(s) paid.
- The gross income amount received or expected to be received on each pay date.

Prospective budgeting requires knowledge of an individual's current, past and anticipated future circumstances. Asking the client questions, such as those that follow, will help establish the best estimate of future income.

- Do you have multiple jobs?
- When do you expect to receive a raise in pay?
- Do your work hours usually increase or decrease at a certain time of year?
- Have you recently received more or fewer hours than usual due to an unusual situation at work? BEM 505 (April 2017), p. 3-4

When income is received in one month but is intended to cover several months (such as, contractual income, farm income, etc.), establish a monthly average amount if the benefit month is one of the months covered by the income.

Establish the monthly average by dividing the income by the number of months it covers. This amount is considered available in each of the months covered by the income. Do not use overlapping months when averaging. BEM 505, p. 7-8.

At redetermination, Department policy requires that the caseworker is to conduct a telephone interview **before** determining ongoing eligibility. BAM 130 (July 1, 2017), p. 6. The Department must verify eligibility requirements factors at redetermination. No verifications were sought and no interview was conducted as established by the evidence presented by the Department.

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 calculated the Petitioner's FAP benefits and did not demonstrate that it properly conducted the redetermination. .


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. The Department shall reprocess the Petitioner's redetermination and verify Petitioner's monthly income.
2. The Department shall issue a FAP supplement to Petitioner in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
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