



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: July 25, 2017
MAHS Docket No.: 17-007923
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, an in person hearing was held on July 20, 2017, from Inkster, 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. Petitioner was an ongoing recipient of FAP benefits. After a redetermination on [REDACTED], the Department reduced the Petitioner FAP benefits.
2. The Department issued a Notice of Case Action on [REDACTED], effective [REDACTED] decreasing her FAP benefits to \$ [REDACTED] a month. Exhibit A.
3. Petitioner received Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED] and has a FAP group of four members. The Petitioner pays rent of \$ [REDACTED] a month and pays electricity and received a heat and utility (h/u) allowance \$ [REDACTED]. This information was verified correct by the Petitioner at the hearing. Exhibit C.

4. The Department included unearned income for child support of \$ [REDACTED] a month, which was incorrect. The Petitioner's child support received for the months of March 2017 was \$ [REDACTED], April 2017 was \$ [REDACTED] and May 2017 was \$ [REDACTED]. When averaged, the correct child support income is \$ [REDACTED] Exhibit B
5. 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 decreased the Petitioner's FAP benefits after a redetermination review. The budget was reviewed at the hearing; and based upon the child support income received for the months of March through May 2017, the Department incorrectly averaged the child support payments received for the past three months. The total child support received was \$ [REDACTED]; and when averaged and divided by three, totals \$ [REDACTED]. Thus, based upon the evidence presented, the FAP benefits as calculated are incorrect as the wrong child support income was used.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). Medical, dental, child care and educational expenses may also be included. Court-ordered child support may be either **certified** or **direct**. Certified support is retained by the state due to the child's FIP activity. Direct support is paid to the client.

Child support is income to the child for whom the support is paid. BEM 503, (July 2017), p. 6. Department policy requires that the Department use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue. If the irregular pattern is expected to continue, then use the average of these three months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past three months to project. **Document the discussion with the client and how you decided on the amount to budget.** BEM 505 (April 2017), pp. 4-5.

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 calculated the Petitioner's FAP benefits.

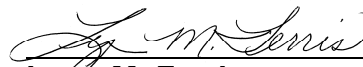
DECISION AND ORDER

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 recalculate the Petitioner's FAP benefits unearned child support income and determine the FAP allotment.
2. The Department shall issue the Petitioner a FAP supplement, if the Petitioner is otherwise eligible for same 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

DHHS

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]