



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 7, 2017

MAHS Docket No.: ██████████ 17-007924

Agency No.: ██████████

Petitioner: ██████████

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 ██████████, from Hamtramck, Michigan. The Petitioner was represented by ██████████, ██████████ Mother's, Petitioner's Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by ██████████, MDHHS Manager and ██████████, Success Coach, PATH.

ISSUE

Did the Department properly reduce the Petitioner's Food Assistance (FAP) benefits after redetermination?

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 is a FAP recipient. At the time of the hearing the Petitioner reported that she is homeless and could not provide an address.
2. The Petitioner completed a redetermination for March 2017.
3. On ██████████, the Department issued a Notice of Case Action that approved the Petitioner for FAP benefits in the amount of ██████████.

4. The Petitioner provided a utility bill and a rent receipt, which was not complete, on [REDACTED]
5. The Petitioner requested a timely hearing on [REDACTED], protesting the reduction of her FAP benefits.

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 effective [REDACTED] after a redetermination, due to the Petitioner not providing proof of rent and utility payment at the time of the redetermination. Exhibit B and C. The Petitioner provided the Department with proof of utility and rent on [REDACTED]. The Department testified that it credited the Petitioner with a utility allowance of [REDACTED], retroactive to [REDACTED], even though the proof of utility obligation was provided after the redetermination certification. The Department further testified that it did not include a housing expense (rent) because the verification of rent was inadequate. A review of the proof of rent was made at the hearing and the Department's decision not to accept the rent receipt provided is correct, as it did not contain the address or a signature of the landlord/owner. Exhibit C

Although the Department testified that it credited the Petitioner retroactively to [REDACTED] no proof by way of FAP budgets or eligibility summary was provided to the undersigned during the hearing and thus it could not be determined that the Department correctly calculated the original FAP allotment for [REDACTED] or the revised allotment(s). In addition, the matter was complicated by the fact that the Petitioner's FIP Cash Assistance may have closed; thus, further affecting the FAP benefits if the income was removed. Based upon the evidence presented it could not be determined whether the Department's calculation of Petitioner's FAP benefits from and after [REDACTED] was correct and in accordance with Department policy.

In preparing for a hearing the Department must prepare a hearing summary which must include all of the following:

- A clear statement of the case action, in chronological order, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the client and the AHR.
- Description of the documents the local office intends to offer as exhibits at the hearing.

When submitting the Hearing Packet, care must be given to whether the MDHHS policies and procedures were applied correctly, and ultimately whether eligibility was properly decided. BAM 600 (April 2017), p. 22, 25.

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 did not present FAP budgets and an eligibility summary as part of its proofs to demonstrate that Petitioner's FAP benefits were correct as re calculated and that appropriate supplements, if any were made.

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 commencing [REDACTED] ongoing, and determine the benefit amount and include the utility allowance as appropriate and as confirmed at the hearing.
2. The Department shall provide **Petitioner's AHR** written notice of its determination and an eligibility summary.

LF/hw



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]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Counsel for Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]