



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: August 14, 2017
MAHS Docket No.: 17-009217
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, a telephone hearing was held on August 9, 2017, from Lansing, Michigan. Petitioner was represented by himself through [REDACTED] interpreter [REDACTED] [REDACTED]. The Department was represented by Hearing Facilitator [REDACTED] [REDACTED].

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 \$ [REDACTED] per month of Food Assistance Program (FAP) benefits.
2. On October 6, 2016, Petitioner reported a change of address. The Department failed to request verification of Petitioner's new shelter expenses. Petitioner incorrectly continued to receive \$ [REDACTED] per month of Food Assistance Program (FAP) benefits. An eligibility re-determination for Petitioner's benefit group of 2, was due for by June 1, 2017.
3. On April 19, 2017, Petitioner submitted the required redetermination paperwork including verification of his shelter expenses.

4. On May 9, 2017, Petitioner's eligibility re-determination was completed. Petitioner was sent a Notice of Case Action (DHS-1605) which stated he was eligible for \$ [REDACTED] per month of Food Assistance Program (FAP) benefits beginning June 1, 2017.
5. On May 26, 2017, Petitioner was sent another Notice of Case Action (DHS-1605) which stated he was eligible for \$ [REDACTED] of Food Assistance Program (FAP) benefits beginning June 1, 2017.
6. On June 17, 2017, Petitioner was sent a Notice of Case Action (DHS-1605) which stated he was eligible for \$ [REDACTED] per month of Food Assistance Program (FAP) benefits beginning July 1, 2017.
7. On June 20, 2017, Petitioner was sent a Notice of Case Action (DHS-1605) which stated he was eligible for \$ [REDACTED] per month of Food Assistance Program (FAP) benefits beginning August 1, 2017.
8. On July 10, 2017, Petitioner submitted a hearing request.

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.

During this hearing the Department asserted that \$ [REDACTED] was the correct Food Assistance Program (FAP) allotment for Petitioner. The FAP financial eligibility budget which showed eligibility for \$ [REDACTED] was reviewed. Petitioner verified that both he and his spouse receive \$ [REDACTED] per month of Supplemental Security Income (SSI) benefits [REDACTED] \$ [REDACTED]. Since they both receive SSI, they are both eligible to receive the State supplement of \$ [REDACTED] per month [REDACTED]. Petitioner's countable unearned income for FAP eligibility should be \$ [REDACTED] ([REDACTED]). Petitioner's FAP financial eligibility budget shows a countable unearned income of \$ [REDACTED]. The Department had no explanation for the discrepancy. Petitioner correctly received a \$ [REDACTED] standard deduction for his benefit group of 2. Petitioner's rent was verified as \$ [REDACTED] per month and he is allowed the full heat and utility standard of \$ [REDACTED] for a total shelter amount of \$ [REDACTED]. Carrying the low, unexplained income through resulted in a net income calculation of \$ [REDACTED]. Reference Table (RFT) 260 Food Assistance Program Issuance

Tables (10-1-2016) shows that a benefit group of 2 with a net income of \$ [REDACTED] is eligible for \$ [REDACTED] per month of FAP benefits.

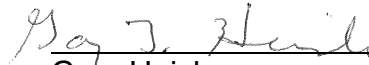
When Petitioner's countable unearned income is calculated to include the State Supplement for both group members, the full eligibility calculation shows that Petitioner would be eligible for \$ [REDACTED] per month.

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 Food Assistance Program (FAP) eligibility. However, since the minor discrepancy is in Petitioner's favor, the Department's eligibility determination will not be reversed.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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]