



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: August 30, 2017
MAHS Docket No.: 17-009862
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; 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 August 23, 2017, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker.

ISSUE

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

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 June 8, 2017, Petitioner applied for FAP benefits.
2. On June 30, 2017, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605 that his FAP application was denied because Petitioner had excess income for FAP where his household monthly income was \$ [REDACTED] but the monthly limit for FAP was \$ [REDACTED] for a group size of 2. Department Exhibit 1, pgs. 15-16.
3. On July 12, 2017, the Department completed a Fee Investigation on Petitioner where he did not own the home, his business was transferred to his Landlord, and

there was no written legal proof that Petitioner and the Landlord were married. Department Exhibit 1, pgs. 3-4.

4. On July 17, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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, Petitioner applied for FAP benefits on June 8, 2017. On June 30, 2017, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605 that his FAP application was denied because Petitioner had excess income for FAP where his household monthly income was \$ [REDACTED] but the monthly limit for FAP was \$ [REDACTED] for a group size of 2. Department Exhibit 1, pgs. 15-16. On July 12, 2017, the Department completed a Fee Investigation on Petitioner where he did not own the home, his business was transferred to his Landlord, and there was no written legal proof that Petitioner and the Landlord were married. Department Exhibit 1, pgs. 3-4. On July 17, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action. BAM 115. BEM 500, 501, and 502.

During the hearing, Petitioner stated that he and the Landlord were no longer dating and in a relationship. They no longer buy, prepare, and eat food together. The Landlord is in a new relationship with someone else. Petitioner did not state in his application that they buy, eat, and prepare food together nor is it in the Department Caseworker's case notes of the FAP interview. The application and case notes were not a part of the hearing packet, but the Department Caseworker testified about the content.

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 denied Petitioner's FAP application due to excess income.

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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to his FAP application dated June 8, 2017, based on a household group size of 1.

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/md

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]