



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 15, 2017
MAHS Docket No.: 17-010369
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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 September 11, 2017, from Redford, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

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.
2. In [REDACTED], Petitioner was due for redetermination of her benefits.
3. Petitioner is the grantee for her FAP group of five members. Petitioner receives child support for three of the children in the FAP group. The monthly child support for each child increased by \$ [REDACTED].
4. The Department re-determined Petitioner's eligibility for FAP benefits. On [REDACTED] the Department sent Petitioner a Notice of Case Action notifying her that her benefits would decrease to \$ [REDACTED] per month effective [REDACTED].
5. The Department admits that Petitioner's benefits were incorrectly calculated as \$ [REDACTED] per month due to either human error or computer glitch.

6. The Department continued to work with Petitioner to ensure the FAP budget correctly reflected her income information. On [REDACTED], the Department issued a Notice of Case Action notifying Petitioner of an increase in benefits and that she would be receiving a supplement for the month of [REDACTED].
7. On [REDACTED], Petitioner filed a request for hearing disputing 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.

Petitioner requested a hearing to dispute the decrease in her FAP benefits. When Petitioner's benefit case was due for redetermination, the Department learned that her income had changed because there had been an increase in the amount of monthly child support received.

A complete redetermination/renewal is required at least every 12 months. BAM 210 (October 2016), p. 2. The redetermination/renewal process includes thorough review of all eligibility factors. *Id.* p. 1. Available countable income is to be used to determine eligibility. BEM 550 (January 2017), p. 1. The entire amount of earned and unearned countable income is to be budgeted. *Id.* The Department budgeted child support, Supplemental Security Income (SSI) and Retirement, Survivors, and Disability Insurance (RSDI) income that the group receives monthly. Child support is income to the child for whom the support is paid. BEM 503 (July 2016), p. 6. The SSI, RSDI and child support were budgeted as unearned income; however, due to an error, the income was calculated incorrectly causing an incorrect determination of monthly FAP benefits. The Department did not provide any information on what the figures were that were part of the incorrect budget that led to the decrease in Petitioner's FAP benefits for [REDACTED].

Any error whether human or computer when made on the Department's behalf is Department error. Subsequently, it was noted that there was an error in the figures being used to calculate Petitioner's benefits so the budget was recalculated with the correct figures. That resulted in the Department increasing Petitioner's benefits as indicated in the [REDACTED], Notice of Case Action.

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 decreased Petitioner's FAP benefits effective [REDACTED].

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, IF NOT ALREADY DONE:

1. The Department shall redetermine Petitioner's benefits for [REDACTED], ongoing, if not already completed, and notify Petitioner in writing.
2. The Department shall issue a supplement to the Petitioner for FAP benefits, **if** she is entitled to receive any, in accordance with Department policy.



DM/jaf

Denise McNulty
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]
[REDACTED]

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