



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: July 7, 2017
MAHS Docket No.: 17-004445
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 29, 2017, from Warren, Michigan. The Petitioner present and was represented by ██████████, Esq. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Assistant Attorney General. ██████████ Hearing Facilitator appeared as a witness on behalf of the Department. ██████████ and Geraldine Brown appeared as observers.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits effective April 1, 2017?

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 is an ongoing recipient of FAP benefits.
2. On March 6, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to \$ ██████████ per month effective April 1, 2017.
3. On March 31, 2017, 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.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4.

Requests for Hearing are required to be submitted within 90 days of the date the action was taken by the Department. In this case, the Department issued a Notice of Case Action on March 6, 2017. Petitioner filed a timely hearing request. However, at the hearing, Petitioner provided the Department with a letter from the Social Security Administration dated July 28, 2015, as well as a dental bill which Petitioner indicated she wished to be considered as an ongoing medical expense.

Under Department policy, the hearing may Supplemental Food Assistance benefit issuances (supplements) **must** be issued when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements are limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits. BAM 406, p. 3.

on March 31, 2017, Petitioner filed a hearing request seeking lost benefits as she believed the FAP allotment amount to be incorrect. Also, on the day of the hearing, Petitioner provided supporting documentation regarding her assertion that she has suffered a loss in benefits. The Department maintained that the \$ [REDACTED] FAP benefit amount outlined in the March 6, 2017 Notice of Case Action was correct based upon the information it had at the time the document was issued. However, the Department indicated that based upon the new information it received on the day of the hearing, a

new calculation of benefits was proper to determine whether Petitioner suffered a loss of benefits. The Department agreed to redetermine Petitioner's eligibility for FAP benefits based upon the new information. Petitioner was informed that new information may or may not result in an increase in FAP benefits and could possible result in a decrease in benefits.

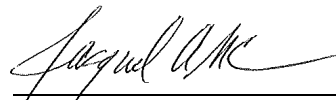
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Petitioner may have suffered a loss in benefits within the twelve months preceding her Request for Hearing based upon newly discovered information.

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. Recalculate Petitioner's eligibility for FAP benefits as of June 2016, ongoing, or otherwise retroactively in accordance with its policy;
2. Issue supplements Petitioner was eligible to receive but did not as of June 2016, ongoing, or otherwise retroactively in accordance with its policy; and
3. Notify Petitioner and her attorney in writing of its decision.

JM/hw



Jacquelyn A. McClinton
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

Counsel for Respondent

[REDACTED]
[REDACTED]
[REDACTED]
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Counsel for Respondent

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Petitioner

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