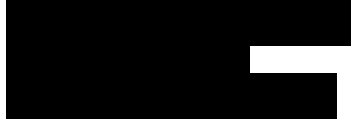




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: December 1, 2017
MAHS Docket No.: 17-014184
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 November 30, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Julie McLaughlin, Family Independence Manager.

ISSUE

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

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 FAP benefit recipient.
2. On October 20, 2017, the Department received information from the Social Security Administration (SSA) that Petitioner's son had unearned income that was not previously budgeted.
3. Petitioner's FAP group consisted of herself and her son.
4. Petitioner had income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the amount of \$896 per month.

5. Petitioner's son had income in the form of RSDI benefits in the amount of \$242 per month and Supplemental Security Income (SSI) in the amount of \$164 per month.
6. On October 20, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit amount was being decreased effective December 1, 2017, ongoing.
7. On October 26, 2017, Petitioner submitted 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.

In this case, the Department received an update from the SSA on October 20, 2017. The Department discovered Petitioner's son had RSDI income that was not being budgeted. As a result, the Department recalculated Petitioner's FAP eligibility. The Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount would be decreasing to \$132 per month effective December 1, 2017, ongoing, as a result of the additional income. The Department presented a FAP budget to establish Petitioner's FAP eligibility (Exhibit C).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), pp. 1-2.

According to the budget provided, the Department concluded Petitioner's group had unearned income in the amount of \$1,406, which it testified consisted of Petitioner's and Petitioner's son's RSDI, as well as Petitioner's son's SSI. The Department retrieved the State Online Query (SOLQ) reports for Petitioner's RSDI benefits, as well as Petitioner's son's RSDI and SSI benefits (Exhibit B). The SOLQ shows Petitioner receives monthly

RSDI benefits in the amount of \$896. Petitioner's son receives SSI benefits in the amount of \$164 per month. Petitioner's son also receives RSDI benefits in the amount of \$242 per month. Upon further review of the Department's testimony and the evidence provided in the SOLQ reports, Petitioner's unearned income does not equal \$1,406. Thus, the Department failed to establish that it properly calculated Petitioner's household income. Because the Department did not properly calculate Petitioner's income, it follows that the Department did not properly calculate Petitioner's FAP benefit amount.

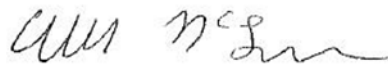
DECISION AND ORDER

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 FAP benefit amount.

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. Redetermine Petitioner's FAP eligibility as of December 1, 2017, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements she was entitled to receive but did not as of December 1, 2017, ongoing; and
3. Notify Petitioner of its FAP decision in writing.



EM/

Ellen McLemore

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.

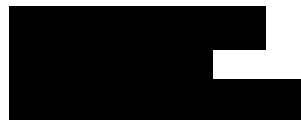
If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Lynne Greening
2700 Baker Street
PO Box 4290
Muskegon Heights, MI 49444

Petitioner



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