



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 11, 2018
MAHS Docket No.: 17-015590
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 January 4, 2018, from Sterling Heights, Michigan. The Petitioner was represented by [REDACTED], Authorized Representative (AR). The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Eligibility Specialist/Hearing Coordinator.

ISSUE

Did the Department properly process Petitioner's application 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. Petitioner was an ongoing recipient of FAP benefits.
2. Petitioner submitted a completed Redetermination on August 16, 2017, on which he notified the Department that he had married on July 30, 2017. [Exhibit A, pp. 7-14.]
3. On October 9, 2017, Petitioner submitted a completed application for FAP and Medical Assistance (MA). Petitioner sought to have his spouse added to his FAP group as a member of his household. [Exhibit 1, pp. 1-39.]

4. On October 9, 2017, Petitioner provided the Department with documentation for his spouse regarding her employment, banking and permanent resident card. [Exhibit 1, pp. 40-43.]
5. On October 11, 2017, the Department mailed Petitioner a Notice of Case Action advising him that his FAP benefits were decreasing because his spouse was no longer a member of his household. [Exhibit A, pp. 17-21.]
6. On December 1, 2017, the Department received Petitioner's request for hearing to dispute 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 in this case to dispute the Department's decision not to add his spouse to his FAP group as a member of his household. Petitioner contends that his spouse is living in his household contrary to the Department's allegation that she is not. The Department did not present any evidence in support of its allegation that the spouse was not living in Petitioner's household.

Petitioner submitted an application on October 9, 2017, requesting FAP and MA for himself and his spouse. The spouse has been provided medical benefits which began in October 2017. When a member leaves a group to apply on his own or to join another group, a member delete should be completed in the month the local office learns of the application/member add. Initiate recoupment if necessary. If the member delete decreases benefits, adequate notice is allowed. BEM 212 (January 2017), p. 9. The spouse is receiving FAP benefits as a member of her parent's household. Petitioner continues to receive FAP benefits also.

The Department sent Petitioner a Notice of Case Action on October 9, 2017, advising him that his benefits were decreased from \$ [REDACTED] per month to \$ [REDACTED] for the month of September 2017, and then to \$ [REDACTED] beginning October 1, 2017. Petitioner was considered to be a household of one beginning September 1, 2017. Spouses who are legally married and live together **must** be in the same group. BEM 212 (January 2017), p. 1.

The AR testified that she was informed by the Department that in September the spouse was no longer on her parent's FAP benefit case. The Department testified, at the hearing, that the spouse is still part of her parent's FAP group and receiving benefits.

The Department presented a budget for the hearing. It was reviewed on the record. Petitioner did not dispute the earnings or shelter expenses. The Department applied the earned income deduction in the amount of \$█ and the standard deduction in the amount of \$█ (September) and \$█ (October) to calculate his adjusted gross income. BEM 556 (July 2013), p. 3; RFT 255 (October 2016, 2017), p. 1. Then the Department deducted the proper excess shelter deduction after giving Petitioner the applicable heating/utility standard in the amount of \$█ (September) and \$█ (October). RFT 255 (October 2016, 2017), p. 1. After completing the calculations, it was determined that Petitioner's net income in September was \$█ and in October \$█. The maximum benefit amount for a group size of one with zero income in September 2017 was \$█ which changed to \$█ in October 2017. The maximum amount of monthly benefits less 30% of Petitioner's net income equaled \$█ (September) and \$█ (October). If Petitioner was a household of one and not living with his spouse, a legal adult, the budget would be correct. However, the evidence presented at the hearing shows that Petitioner is a household of two.

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 did not include Petitioner's spouse in his household and add her to the FAP group.

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. To reregister the October 9, 2017, application, adding the spouse as a member of the household;
2. Begin reprocessing the application/recalculating the FAP budget for October 9, 2017-ongoing;
3. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not receive beginning October 9, 2017-ongoing; and

4. Notify Petitioner of its decision 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]

Authorized Hearing Rep.

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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