



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 16, 2018
MAHS Docket No.: 18-000261
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 12, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits beginning December 2017 ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In November 2017, Petitioner submitted a State Emergency Relief (SER) application seeking food assistance.
2. On December 19, 2017, Petitioner submitted a FAP application after being advised that an SER application would not help her with food assistance.
3. On December 28, 2017, Petitioner was issued [REDACTED] in FAP benefits for December 2017.
4. On January 2, 2018, Petitioner was issued a [REDACTED] FAP supplement for December 2017 and an [REDACTED] FAP supplement for January 2018.

5. On January 15, 2018, Petitioner was issued [REDACTED] in FAP benefits for January 2018.
6. No Notice of Case Action was ever issued to Petitioner outlining her FAP benefits.
7. On January 19, 2018, Petitioner submitted a hearing request disputing the denial of food assistance from her SER application and the calculation of her FAP benefits from December 2017 ongoing.

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER is not a program which provides food assistance. ERM 100 (October 2016), pp. 1-5. The form used for SER assistance is a DHS-1514. ERM 103 (February 2017), p. 1. The form used for food assistance is a DHS-1171. BAM 110 (January 2017), p. 1. Since Petitioner did not submit a food assistance application in November 2017, but instead submitted an SER application in November 2017, her food assistance benefits cannot be back dated to November and food benefits were properly denied for November 2017.

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 admits that no Notice of Case Action was issued to Petitioner prior to January 16, 2018 and that one of Petitioner's children was removed from her FAP group in error during the December 2017 calculation. As a result, the Department attempted to correct its error, recalculating a budget for December 2017 and January 2018 ongoing, issuing budgets based upon the newly calculated budgets, then issuing a ticket with the Department to determine why no Notice of Case Action was generated through Bridges. As of the hearing date, Petitioner still had not received a Notice of Case Action.

In order to determine whether the initial or revised FAP benefits were calculated correctly, a review of the budgets for each month was completed. 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), p. 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), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, p. 8. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, p. 8.

In this case, the Department relied upon Petitioner's verified income with [REDACTED]. On November 4, 2017, Petitioner was paid [REDACTED]. On November 18, 2017, she was paid [REDACTED]. On December 2, 2017, she was paid [REDACTED]. Finally, on December 16, 2017, she was paid [REDACTED]. Based upon Petitioner's pay stubs, she was paid on a biweekly basis. Looking to the pay checks during the most recent 30 days prior to her application date, Petitioner was paid an average of [REDACTED]. Multiplying the average weekly wage by [REDACTED] gives the prospective monthly income of [REDACTED]. In each of the budgets from both before and after the revisions to Petitioner's group size, the Department listed Petitioner's earned income as [REDACTED]. Based upon the evidence presented, the Department did not properly calculate Petitioner's earned income.

After further review, the Department listed an unearned income of [REDACTED] in December 2017 for the first budget before the group size revisions, and the same after the group size revisions. In the January 2018 budget, the Department listed the unearned income as [REDACTED]. In the February 2018 budget, the Department listed the unearned income as [REDACTED]. The Department is uncertain how the unearned income was calculated. The Petitioner admits that she receives Supplemental Security Income (SSI) benefits for her children but does not know the exact amount. She also admits that she receives some child support for some of her children, but again does not know the exact amount. Without further evidence the Department has not met its burden of proof in showing that it properly calculated the unearned income of Petitioner.

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 did not act in accordance with Department policy when it calculated Petitioner's earned income and failed to satisfy its

burden of showing that it acted in accordance with Department policy when it calculated Petitioner's unearned income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** in part with respect to the November 2017 denial of food assistance benefits based upon Petitioner SER application, **REVERSED** in part with respect to the calculation of FAP benefits from December 2017 ongoing.

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. Reprocess Petitioner's application for benefits from December 20, 2017 ongoing;
2. If Petitioner is eligible for benefits, issue any supplements due that were not previously paid in accordance with policy; and
3. Notify Petitioner in writing of its decision.



AM/cg

Amanda M. T. Marler
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]