



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 8, 2018
MAHS Docket No.: 18-001168
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on March 1, 2018, from Detroit, Michigan. The Petitioner was not present. However, [REDACTED], Petitioner's Authorized Hearing Representative (AHR) appeared for the hearing. [REDACTED] served as the Arabic interpreter for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits to [REDACTED] effective February 1, 2018 and close Petitioner's FAP benefits effective March 1, 2018?

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 May 2017, Petitioner submitted banking information which revealed that the group's assets were greater than [REDACTED].
2. On December 12, 2017, Petitioner submitted a Semi-Annual Contact Report which indicated that the group's assets did not exceed [REDACTED].
3. In December 2017, Petitioner's son began working 20 hours or more at his part time employment.

4. As a result, in the increased hours, the Department recalculated the group's eligibility for FAP benefits effective February 1, 2018.
5. On January 25, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that the group's FAP benefits would decrease to [REDACTED] effective February 1, 2018 and would close effective March 1, 2018.
6. On January 31, 2018, 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.

February 2018 decrease in benefits

Additionally, Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation

In this case, the Department testified it reduced the group's FAP benefits in February 2018 because Petitioner's son began working more than 20 hours per week. A person is entitled to student status if he/she attends class and works at least 20 hours per week. BEM 245 (January 2017), p. 5. A person who does not meet this criteria is considered a non-group member. BEM 212 (January 2017), p. 9. The Department received paystubs relating to Petitioner's son's employment which revealed that in December 2017, he worked at least 20 hours per week throughout the month. Thus, once Petitioner's son met the criteria he was an eligible group member.

Petitioner's wife and son are employed. The Department budgeted the earned income based upon paystubs submitted by Petitioner. The total earned income for the home was [REDACTED]. Gross countable earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1. When the earned income deduction of [REDACTED] is subtracted from Petitioner's gross countable income, the group's income is [REDACTED]. Based on Petitioner's circumstances, she was eligible to receive a standard deduction of [REDACTED] based on a six-person group size. RFT 255 (October 2017), p. 1.

Petitioner's husband acknowledged that the group does not pay a mortgage but has a tax expense in the amount of [REDACTED]. Petitioner has a heat and electric expense and therefore was entitled to a heat and utility standard of [REDACTED]. RFT 255 (October 2017), p. 1. Based upon Petitioner's housing expense and Petitioner's husband's status as a veteran, the group was entitled to receive an excess shelter deduction of [REDACTED]. Once the standard deduction of [REDACTED] and the excess shelter deduction of [REDACTED] are subtracted from the household income amount of [REDACTED], the net income is [REDACTED]. Accordingly, based on the information available to the Department properly determined that Petitioner was entitled to a FAP benefit amount of [REDACTED] effective February 1, 2018.

March 2018 closure

The Department testified that in May 2017, it received a banking statement which revealed that Petitioner had more than [REDACTED] in banking assets. The Department indicated that the case should have closed when the banking statement was received because the group was over the asset level. However, the Department later learned that the most if not all of the banking balance was attributed to an income tax refund. Under Department policy, all state and local earned income tax credits and refunds are excluded, including home heating credits. BEM 400 (January 2017), p. 20.

The Department further testified that because Petitioner failed to report any changes on the Semi-Annual Contact Report, it closed Petitioner's FAP benefits effective March 1, 2018 because the group exceeded the asset level. However, a review of the Semi-Annual Contact Report reveals that the following question was asked:

Do your household's total assets (cash on hand, stocks, bonds, and money in a bank account or savings institution) reach or exceed [REDACTED]?

To this question, Petitioner answered no. If the Department believed that Respondent was over the asset level as a result of the May 2017 banking statement, then the response to the aforementioned question should have represented a change to the Department. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130 (January 2017), p. 1. Because Petitioner reported what amounts to a change in circumstance, the Department should have sent verifications to Petitioner prior to the closure effective March 1, 2018.

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 acted in accordance with Department policy when it determined that Petitioner was eligible for FAP benefits in the amount of [REDACTED] effective February 1, 2018. However, 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 did not act in accordance with Department policy when it closed Petitioner's FAP benefits effective March 1, 2018.

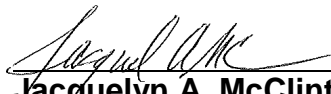
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the decrease in FAP benefits effective February 1, 2018 and **REVERSED IN PART** with respect to the closure of FAP benefits effective March 1, 2018.

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 eligibility for FAP benefits effective March 1, 2018;
2. If Petitioner was eligible for a supplement, issue FAP supplements Petitioner was eligible to receive but did not effective March 1, 2018; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



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

Via Email:

MDHHS-Macomb-20-Hearings

[Redacted]

Petitioner

- **Via First-Class Mail:**

[Redacted]

Authorized Hearing Rep.

- **Via First-Class Mail:**

[Redacted]