



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 4, 2018
MAHS Docket No.: 18-001671
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 28, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker, Hearing Facilitator.

ISSUE

Did the Department properly reduce the Petitioner's FAP benefits?

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 this case the Petitioner sought a hearing regarding issues with respect to the Department's denial of Petitioner's application for Family Independence Program, (FIP) cash assistance filed on November 17, 2016 and denied on November 18, 2016, effective December 16, 2016. Exhibit B.
2. The Petitioner completed a redetermination for FAP benefits on October 30, 2017 with a due date of November 8, 2017. The redetermination form listed Petitioner's address as [REDACTED]
3. The Petitioner receives disability from the Social Security Administration in the amount of [REDACTED] monthly.

4. In the redetermination the Petitioner listed no housing expenses for rent or change of address and indicated receiving help with a home heating credit.
5. The Department issued a Notice of Case Action on January 12, 2018 finding that Petitioner was approved for January 1, 2018 ongoing for [REDACTED] a month which was a decrease in FAP benefits, which were previously [REDACTED]. The Notice listed income of [REDACTED], a shelter expense of \$537 and a non-heat electric standard of [REDACTED].
6. The Petitioner sought credit for housing expenses based upon a receipt for a [REDACTED] stay for December 10, 2017 through December 16, 2017 for a cost of [REDACTED].
7. The Petitioner requested a timely hearing regarding the reduction of her food assistance on February 7, 2018.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, the Petitioner sought a hearing regarding the denial of an application for FIP cash assistance filed on November 17, 2016 based upon a Notice of Case Action dated November 18, 2016 denying the application effective December 1, 2016.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 2. Moreover, BAM 600, p. 6 provides that **a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.** (Emphasis Supplied)

In the present case, the Department sent Petitioner a Notice of Case Action advising Petitioner of its decision to deny the Petitioner's application for FIP Cash Assistance by Notice of Case Action dated November 18, 2016 effective December 16, 2016. The Petitioner requested a hearing on February 7, 2018 protesting the denial of her FIP application. Because the Petitioner did not file a request for hearing to contest the Department's action regarding her FIP cash assistance application until February 7, 2018, the hearing request was untimely as it was not filed within 90 days of the Notices.

Petitioner's hearing request dated February 7, 2018 was not timely filed within ninety days of the Notice of Case Action and is, therefore must be dismissed for lack of jurisdiction.

The Petitioner also seeks a hearing regarding the reduction of her FAP benefits after she completed the redetermination. In the redetermination the Petitioner listed no housing expense other than assistance with home heating received. Thus, based on the redetermination the Department did not allow Petitioner any housing costs other than for heat utility allowance of [REDACTED]. Exhibit B. The Petitioner also sought to have her housing costs include a motel stay based upon a receipt submitted at the hearing for a stay in December 2017 at the [REDACTED] for December 10, 2017 through December 16, 2017 for costs of [REDACTED]. The receipt was provided and received by the Department in December 2017. BEM 554 defines housing expenses that are eligible to be included in the FAP budget calculation:

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are **not** allowed. BEM 554 (August 2017), p. 13.

As can be seen by the definition of housing expense, the Department cannot allow the costs for the motel stay as a housing cost because it is not rent and no evidence such as additional receipts were presented to establish it was continuing, thus it was properly not included as a valid housing expense.

Finally, the Department inferred from the redetermination listing no housing expense that the Petitioner was homeless, and she advised her caseworker of her situation at the time of the redetermination that she was homeless. Therefore, it is concluded that the Department properly reduced the Petitioner's FAP 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 Department acted in accordance with Department policy when it decreased the Petitioner's FAP benefits.

DECISION AND ORDER

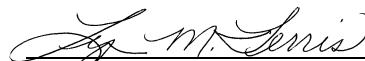
Accordingly, the Department's decision is

AFFIRMED.

The Petitioner's Hearing Request dated February 7, 2017 regarding the denial of a FIP application denied by Notice of Case Action dated November 18, 2016 is hereby DISMISSED for lack of jurisdiction as it was untimely.

IT IS SO ORDERED.

LF/tm



Lynn M. Ferris

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]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]
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