



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 18, 2018
MAHS Docket No.: 18-002899
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 4/17/18, from [REDACTED] Michigan. The Petitioner was not represented. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] who did not have personal knowledge of this case.

ISSUE

Did the Department properly budget Petitioner's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. At all relevant times, Petitioner has been a beneficiary of the State of [REDACTED] FAP program.
2. On 3/16/18 Petitioner filed a hearing request regarding the calculation of FAP budget.
3. The most recent action taken by the Department was a 1/30/18 Notice of Case Action informing Petitioner that for 1/1/18 to 3/31/18 Petitioner's FAP allotment will be \$ [REDACTED]. The Department budgeted \$ [REDACTED] in earned income; \$ [REDACTED] in unearned; and \$ [REDACTED] in child day care.
4. The Department's file contains verification from Petitioner that her CDC monthly expenses were verified on 6/14/17 as \$ [REDACTED] per month.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Petitioner disputed a number of different case and program issues and budgeting items that were resolved at the administrative hearing. Petitioner indicated that there are 2 remaining issues for the FAP budget: gross vs net income, and, Petitioner's budgeted CDC expenses.

In this case, Petitioner brought no evidence of any verification with her to the administrative hearing to dispute or that would should any information contrary to the verifications contained in Petitioner's file with the Department.

First, Petitioner disputes that the Department counted gross and not net income. Under BEM Item 500, and corresponding FAP budgeting policy, federal and state law require the Department to count the gross amount received in earned and unearned income. The Department here correctly counted the gross earned income and Petitioner's children's SSI income.

Regarding the CDC income calculation, Petitioner requests that the Department calculate [REDACTED] for each of 5 children per month. Petitioner submitted evidence for the 3/3/18 to 4/3/18 period. However, Petitioner's evidence is not relevant to the budget calculated in December/January 2018 for the 1/1/18 to 3/31/18 benefit period at issue here. For the time period being reviewed, the Department had verification in Petitioner's file dated 6/14/17 that shows that the Department had verification that Petitioner's monthly CDC expenses were \$ [REDACTED]. Based on this evidence, Petitioner has met her burden to show that the Department failed to correctly budget the CDC expenses based on the verifications in Petitioner's file. The Department representative at the administrative hearing agreed that the wrong CDC amount was budgeted.

Petitioner requests that this ALJ order the Department to recalculate eligibility back to June 2017, when the Department received the CDC verification. However, this ALJ cannot review benefits beyond the 90-day jurisdictional window for which a hearing request is filed. As Petitioner's hearing request was filed 3/16/18, Petitioner has the right to have her FAP budget recalculation for the prior 90 days or back to 12/16/18.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record finds that the Department failed to correctly budget Petitioner's CDC expense of \$ [REDACTED] in the FAP budget from 12/16/17 to 3/16/18. As such, the Department failed to act in accordance with Department policy when it failed to budget the correct expense. The Department is required to recalculate eligibility using the verification it has in its file regarding FAP allotment in accordance with this decision and order.

DECISION AND ORDER


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. The Department is ordered to recalculate Petitioner's FAP budget for the time period from 12/16/17 to 3/16/18 by budget \$ [REDACTED] per month in CDC expenses.
2. The Department is ordered to issue new notice to Petitioner informing her of the outcome of the new calculation, and, the difference potentially owed from the old to the new budget.

3. The Department shall issue any supplemental benefits to Petitioner to which she is entitled.

JS/nr



Janice Spodarek
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]

Petitioner

[REDACTED]