



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 26, 2018
MAHS Docket No.: 18-003163
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 April 25, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (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. Petitioner is an ongoing recipient of FAP benefits.
2. On November 27, 2017, Petitioner reported an increase in his rent to \$ [REDACTED] per month which included his heating cost leaving Petitioner with responsibility to pay his electric bills.
3. On December 12, 2017, the Department issued a Notice of Case Action alerting Petitioner to his decreased FAP benefit rate of \$ [REDACTED] beginning January 1, 2018, after consideration of his increased rent and removal of the Home Heating Credit and Heat and Utility Standard (H/U).

4. On February 15, 2018, the Department received Petitioner's hearing request disputing the reduction in his FAP benefit rate.

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.

In this case, the Department reduced Petitioner's FAP benefit rate from \$ [REDACTED] to \$ [REDACTED] after making changes to his FAP budget including his increased rent and removal of the H/U and Home Heating Credit. At the time of the updates to Petitioner's rent, the Department discovered that Petitioner had been receiving the Home Heating Credit since August 18, 2014, but that it had not been verified since that date. As a result, the credit was removed, and Petitioner was no longer eligible for the H/U. Petitioner did not dispute any other element of his FAP benefit calculation.

During the process of review, the Department never inquired with Petitioner regarding the costs of cooling his home and who pays for it. Petitioner never volunteered the information because he did not know that it might be relevant. At the hearing, Petitioner testified that he has two window air-conditioning units to cool his home which are operated through electricity, a utility for which he is individually responsible to pay.

The H/U standard covers all heat and utility costs including cooling, except actual utility expenses such as installation fees or other similar items. BEM 554, p. 15. FAP groups that qualify for the H/U standard do not receive any other individual utility standard deductions. *Id.* FAP groups whose heat is included in their rent can still qualify for the H/U standard if they receive a home heating credit, a low-income home energy assistance payment, or if they pay for the cooling costs. *Id.*

In this case, Petitioner pays for the cooling costs of his home; therefore, he is eligible for the H/U. 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 removed Petitioner's H/U from the calculation of his FAP benefits resulting in a decrease in FAP benefits.

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. Redetermine and recalculate Petitioner's FAP benefit rate from January 1, 2018, ongoing;
2. If Petitioner remains eligible for FAP benefits and is eligible for a greater FAP benefit rate than previously issued, issue supplements to Petitioner in accordance with Department policy from January 1, 2018, ongoing; and
3. Notify Petitioner in writing of its decision.



AM/

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

DHHS

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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