



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 26, 2018
MAHS Docket No.: 18-003967
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on June 20, 2018, from Lansing, Michigan. Petitioner was represented by her Authorized Hearing Representative (AHR) [REDACTED] and Petitioner testified on her own behalf. The Department was represented by Crystal Cusic-Spencer, Assistance Payments Supervisor, and Alison Peck, Assistance Payments Worker.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for 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. On January 4, 2018, the Department sent Petitioner a Redetermination (DHS-1010) with a February 5, 2018, due date. Exhibit A, pp 4-11.
2. On February 28, 2018, the Department received Petitioner's Redetermination (DHS-1010) form. Exhibit A, pp 4-11.
3. Petitioner reported a reduction of household income on her Redetermination form and provided verification of earned income. Exhibit A. pp 4-13.
4. On February 28, 2018, the Department received verification of Petitioner's obligation to pay shelter expenses. Exhibit A, p 14.

5. On February 28, 2018, the Department received copies of two paycheck stubs showing household earned income in the gross bi-weekly amount of \$316.25 on February 23, 2016, and \$508.75 on January 25, 2018. Exhibit A, pp 12-13.
6. On April 9, 2018, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) benefits she had been granted.

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.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely. Do not process a change for a month earlier than the month the change occurred. Supplements are not issued to correct underissuances caused by the group's failure to report timely. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-10.

On January 4, 2018, the Department sent Petitioner a Redetermination form with a due date of February 5, 2018, and Petitioner failed to return this form in a timely manner. The Department received the Redetermination form on February 28, 2018, which was before FAP benefits closed making reinstatement appropriate as directed by BAM 205.

Petitioner reported a reduction of household income on February 28, 2018, by submitting two bi-weekly paycheck stubs showing earned income from employment in the gross monthly amounts of \$316.25 and \$508.75. An income decrease that results in a benefit increase must affect the month after the month the change is reported when the reported change was untimely. Therefore, the Department was acting in accordance with BEM 505 when it redetermined Petitioner's allotment of FAP benefits effective April 1, 2017.

The Department redetermined Petitioner's eligibility for FAP benefits as of April 1, 2018, based on earned income in the gross monthly amount of \$986. This determination of household income is not supported by the evidence presented on the record. The record evidence supports a finding that a group of four receiving bi-weekly paychecks of \$508.75 and \$316.25 has a prospective gross monthly income of \$866.88, which makes Petitioner eligible for a \$640 monthly allotment of FAP benefits as of April 1, 2018.

However, Petitioner is not eligible for a FAP supplement for March of 2018 because decreasing income was not reported in a timely manner.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) benefits.

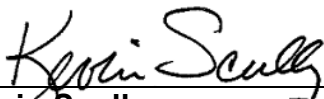
DECISION AND ORDER

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:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits as of April 1, 2017.

KS/hb



Kevin Scully
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) 763-0155; 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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]

Authorized Hearing Rep.

Susan Yenglin
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Waterford, MI 48328