



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: June 6, 2018  
MAHS Docket No.: 18-004244  
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 May 29, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

**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 [REDACTED], the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment effective [REDACTED] and a \$ [REDACTED] monthly allotment effective [REDACTED]. Petitioner's eligibility for Food Assistance Program (FAP) benefits effective [REDACTED], was determined based on a \$ [REDACTED] gross monthly income. Exhibit A, pp 3-7.
2. Petitioner receives monthly unearned income in the gross monthly amount of \$ [REDACTED]. Exhibit A, p 8.
3. On [REDACTED], the Department received Petitioner's Redetermination (DHS-1010) form. Exhibit A, pp 16-23.

4. On [REDACTED], the Department received verification of Petitioner's monthly housing expense obligation of \$ [REDACTED] which includes heat expenses. Exhibit A, p 31.
5. On [REDACTED], the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment effective [REDACTED]. Exhibit A, pp 32-35.
6. On [REDACTED], the Department received Petitioner's request for a hearing.

### **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.

For all Food Assistance Program (FAP), in order to continue receiving the heat and utility standard deduction, the Food Assistance Program (FAP) group must meet the requirements of the mandatory heat and utility standard section. The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 14.

Petitioner was an ongoing FAP recipient in January of 2018, receiving a \$ [REDACTED] monthly allotment of benefits based on a \$ [REDACTED] gross monthly income and receiving the standard heat and utility deduction. On [REDACTED], the Department redetermined Petitioner's eligibility for ongoing FAP benefits.

Due to Department error, Petitioner was credited with more income than she actually receives. This caused her monthly allotment of FAP benefits to be reduced to \$ [REDACTED]

Due to Department error, Petitioner was credited with the heat and utility deduction although she is not responsible for heating expenses separately from her monthly housing expenses obligation and did not receive the Home Heating Credit in the previous 12 months.

A group of one receiving monthly unearned income in the gross monthly amount of \$ [REDACTED] and an obligation to pay monthly rent of \$ [REDACTED] in addition to telephone expenses, is entitled to a \$15 monthly allotment of FAP benefits.

Petitioner received a \$ [REDACTED] monthly allotment of FAP benefits effective [REDACTED], but this amount was not determined by the accurate amount of Petitioner's income and expenses.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits based on her actual income and expenses.

### **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 effective [REDACTED], and ongoing, and provide the Petitioner with written notice describing the Department's revised eligibility determination.

KS/hb

  
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**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**

[REDACTED]

**Petitioner**

[REDACTED]