



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 5, 2018
MAHS Docket No.: 18-004266
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 May 31, 2018, from Lansing, Michigan. Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 was a FAP benefit recipient.
2. Petitioner applied for Family Independence Program (FIP) cash benefits because she is providing care for her two granddaughters and seeking guardianship.
3. Once the FIP was approved, the Department closed Petitioner's FAP case because Petitioner's income is over the limit.
4. Petitioner is receiving RSDI benefits and is also employed.

5. Petitioner also applied for State Emergency Relief (SER) for her [REDACTED] Services.
6. The SER was approved. A State Emergency Relief Decision Notice was sent to Petitioner on [REDACTED], indicating that Petitioner needs to make her co-payment on the [REDACTED] bill before the State's portion of the benefits would be paid.
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action approving Petitioner for FAP benefits in the amount of \$ [REDACTED] per month for a household group size of one.
8. On [REDACTED], the Department sent Petitioner Notice of Potential Food Assistance (FAP) Closure stating that Petitioner had not returned her mid-certification form or required information.
9. On [REDACTED], Petitioner filed a Request for Hearing to contest the Department's negative action.
10. A FAP budget generated on [REDACTED], indicates that the Gross monthly income limit for FAP for a group size of three people is \$ [REDACTED]. Petitioner was entitled to receive \$ [REDACTED] per month in FAP benefits.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department policy indicates:

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non-financial and financial eligibility of everyone in the group.

Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see LIVING SITUATIONS in this item. BEM 212 page 1

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, determine if they must be included in the group. If they are not mandatory group members, then determine if they purchase and prepare food together or separately.

A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. This policy does not apply to foster children (see below). A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group.

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212, page 3

In this case, it was unclear at hearing whether Petitioner continues to be eligible to receive FAP benefits and it was unclear how much she was supposed to receive if she was eligible for the benefit.

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 establish that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits.

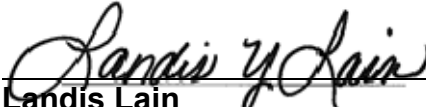
DECISION AND ORDER

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. Initiate Redetermine of Petitioner's eligibility for FAP benefits.
2. If Petitioner is otherwise eligible, pay to Petitioner any outstanding FAP benefits that Petitioner is entitled to pursuant to Department policy.

LL/bb



Landis Lain
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]