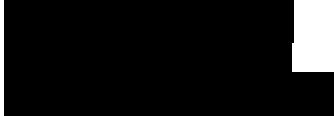




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 8, 2018  
MAHS Docket No.: 18-004373  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Carmen G. Fahie

**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. The Petitioner was represented by herself and her husband, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Rebecca Johnson, Assistance Payments Worker.

**ISSUE**

Did the Department properly close the Petitioner's Food Assistance Program (FAP) case because they could not determine continued 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. The Petitioner was a recipient of FAP benefits with a redetermination due.
2. On January 4, 2018, the Department sent the Petitioner a Redetermination Application, DHS 1010, that was due February 5, 2018 for a telephone appointment. Department Exhibit 1, pg. 1.
3. On February 22, 2018, the Department Caseworker received the Redetermination Application, DHS 1010, from the Petitioner with a Federal IRS 1040 Individual Income Tax Return for 2016 with a Schedule C form for 2016. Department Exhibit 1, pgs. 1-4.

4. On March 13, 2018, the Department Caseworker received a Federal IRS 1040 Individual Income Tax Return for 2017 with a Schedule C form for 2017.
5. On March 22, 2018, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP case was closed March 1, 2018. Department Exhibit 1, pgs. 6-7.
6. On April 20, 2018, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

### **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 Petitioner submitted her redetermination application on February 22, 2018 with her tax information for the previous year of 2016. During the hearing, she stated that she had not done her taxes yet, so she provided her income information for the previous year. Since the Petitioner is self-employed and her tax information is the best information to determine her income, the Department, if they maintain a redetermination during the month of February will have to use the previous year's as the best estimate of income until she does her taxes or change her redetermination until April or May.

However, the Petitioner did file her taxes in March 2018 and submitted a copy to the Department on March 13, 2018. The Department could have used her 2016 income until she submitted her 2017 updated income. The Petitioner was doing her best to provide the verifications required by the Department by their due date. BAM 115 and 210.

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 failed to use the best estimate to determine the Petitioner's continued 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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her case closure of March 1, 2018.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.



CF/nr

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Carmen G. Fahie  
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**

Tara Roland 82-17  
8655 Greenfield  
Detroit, MI  
48228

Wayne 17 County DHHS- via electronic  
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

