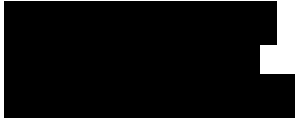




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 7, 2018
MAHS Docket No.: 18-004440
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 June 5, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. The Department of Health and Human Services (Department) was represented by Jermaine Allen, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective May 1, 2018?

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 an ongoing recipient of FAP benefits.
2. On an unspecified date, Petitioner submitted her redetermination for her FAP benefits concerning a review date of April 30, 2018. [Exhibit A, p. 9.]
3. The Department processed her redetermination and determined her net income exceeds the limits for the FAP program. [Exhibit A, pp. 1, 10, and 14.]
4. On April 18, 2018, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective May 1, 2018, ongoing, due to her net income exceeding the limits and her failure to comply with the verification requirements. [Exhibit A, pp. 13-14.]

5. On April 25, 2018, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-3.]

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

In this case, Petitioner also filed a hearing request in which she protested the closure of her MA benefits effective May 1, 2018, ongoing. [Exhibit A, pp. 3 and 11-12.] Shortly after commencement of the hearing, it was discovered that Petitioner's MA benefits were reinstated effective May 1, 2018, with no lapse in coverage. Petitioner no longer disputed her MA benefits because the issue had been resolved. As such, Petitioner's hearing request concerning the MA benefits is DISMISSED.

FAP benefits

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. BEM 556 (April 2018), p. 5. Moreover, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017), p. 1. RFT 250 indicates that the monthly net income (100%) limit for a group size of one is \$1,005. RFT 250 (October 2017), p. 1.

In the present case, the Department closed Petitioner's FAP benefits effective May 1, 2018, ongoing, due to the income exceeding the net income limits. [Exhibit A, pp. 1 and 14.] In order to determine if Petitioner's income exceeded the net income limits, the

undersigned reviewed the FAP budget provided by the Department. [Exhibit A, pp. 9-10.]

First, it was not disputed that the certified group size is one and that Petitioner is an SDV member. [Exhibit A, p. 9.]

Second, the Department calculated Petitioner's gross earned income to be \$ [REDACTED] which comprised of her employment income. [Exhibit A, p. 9.] However, the Department failed to provide sufficient evidence and testimony showing how it calculated Petitioner's gross income. As a result, the Department failed to establish that Petitioner's net income had in fact exceeded the limits for the program.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2018), p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether MDHHS policy was appropriately applied. BAM 600, p. 39.

Here, the Department argued that Petitioner's net income exceeded the limits for the FAP benefits, resulting in the closure of her FAP benefits. However, as shown above, the Department failed to establish its burden of showing how her net income exceeded the limits. Therefore, the Department is ordered to redetermine Petitioner's FAP eligibility effective May 1, 2018. As a side note, it appeared that Petitioner's income fluctuates and there is policy guidance for the Department on how to calculate such income. BEM 505 states that the Department uses income from the past 60 or 90 days for fluctuating or irregular income, if: the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505 (October 2017), pp. 6-7.

DECISION AND ORDER

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 satisfy its burden of showing that it properly closed Petitioner's FAP benefits effective May 1, 2018.

Accordingly, the Department's FAP 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 Petitioner's FAP eligibility effective as of May 1, 2018;
2. Recalculate the FAP budget for May 1, 2018, ongoing;

3. Issue supplements to Petitioner for any FAP she was eligible to receive but did not from May 1, 2018, ongoing; and
4. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's MA hearing request is **DISMISSED**.

EF/nr


Eric J. Feldman
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

LaClair Winbush
17455 Grand River Ave
Detroit, MI
48227

Wayne 31 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

