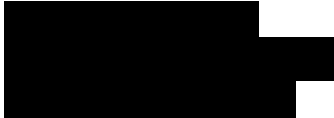




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 29, 2018  
MAHS Docket No.: 18-005192  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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 21, 2018, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Dayo Garrett, Eligibility Specialist.

During the hearing proceeding the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-23.

**ISSUE**

Did the 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 or about April 13, 2018, Petitioner applied for FAP. (Exhibit A, p. 6; ES Testimony)
2. The Department ran reports to verify the household income from Social Security Administration (SSA) issued benefits and child support. (Exhibit A, p. 1; ES Testimony)
3. The Department initially calculated the FAP budget utilizing \$1,471 for the unearned income. (Exhibit A, pp. 7 and 11-13)

4. On May 7, 2018, a Notice of Case Action was issued to Petitioner stating FAP was approved for April 13, 2018 through April 30, 2018 for \$144, and for May 1, 2018 through March 31, 2019, with a monthly allotment of \$240. (Exhibit A, pp. 6-7)
5. The Department re-calculated the budget with a corrected income of \$1,456. (Exhibit A, pp. 9-10, and 14-16; ES Testimony)
6. On May 10, 2018, a Notice of Case Action was issued to Petitioner stating FAP was approved for June 1, 2018 through March 31, 2019, with a monthly allotment of \$246.00. (Exhibit A, pp. 8-9)
7. On June 1, 2018, Petitioner requested a hearing contesting the Department's actions. (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.

When determining the initial FAP benefits for a new application, the Department will automatically prorate initial benefits when prorated benefits are required based on the date eligibility begins. BAM 406 (July 1, 2013), p. 1.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits, the state supplement to the SSA benefits, and child support. BEM 503, July 1, 2017, pp. 6-10, 31-32, and 35-37) Further, the Department counts the gross amount of current SSA-issued SSI as unearned income. SSI amounts withheld to recoup overpayments due to an intentional program violation (IPV) as defined in the BEM 503 policy are also included in the gross amount. BEM 503, July 1, 2017, p. 35.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (August 1, 2017), p. 13. Heat and utility expenses can also be included as allowed by policy. FAP groups that qualify for the heat/utility (h/u) standard do not receive any other individual utility standards. BEM 554, p. 15.

In this case, the Department verified the SSA issued SSI benefit from an SOLQ report. This showed the SSI gross amount was \$675 plus a \$75 overpayment that was being withheld. (ES Testimony) Pursuant to the above cited BEM 503 policy, the Department properly budgeted \$750 for the SSI portion of the unearned income. In the corrected FAP budget, the Department also included \$14 as the prorated portion of the \$42 state supplement to the SSI benefit that is issued quarterly. Regarding the child support amount budgeted, the ES explained that the Department utilizes a three-month average. (Exhibit A, pp. 17-22) There was no dispute regarding the amount of the budgeted shelter expense. (Petitioner Testimony) The Department also properly utilized the applicable standard deduction and full heat/utility standard.

However, it is unclear why the Department only made the correction to the budgeted income apply to the FAP benefits for June 1, 2018, forward. There was no evidence that there was any income change reported between the May 7, 2018, initial determination and the May 10, 2018, determination from the corrected budget. Accordingly, the corrected budget should have been utilized to determine the FAP eligibility back to the April 13, 2018, effective date from the initial determination.

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 FAP for the April 13, 2018, application.

### **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. Re-determine Petitioner's eligibility for the April 13, 2018, FAP application in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



CL/nr

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Colleen Lack  
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**

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Wayne 31 County DHHS- via electronic  
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

[REDACTED]