



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: July 19, 2018
MAHS Docket No.: 18-005831
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 July 11, 2018, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by Lacasa Godboldo, Eligibility Specialist and Dionere Craft, Hearings Facilitator.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) and approve Petitioner for Child Development and Care (CDC) from February 15, 2018, forward?

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 is an FAP and CDC benefit recipient.
2. On February 15, 2018, Petitioner filed a CDC application which was processed and approved.
3. On May 25, 2018, the Department received a Request for Hearing from Petitioner, requesting CDC from September of 2017, and contesting a reduction of FAP benefits.

4. A telephone pre-hearing conference was held with Petitioner.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, the Department has no record of an application for Petitioner which Petitioner claims she filed in September 2017. She presented a verification form and a FAX verification for two pages, but the documents do not establish that Petitioner filed a CDC application in September 2017.

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, Petitioner receives \$786.00 per month in countable unearned income. Her household receives \$1,392.00 in earned income. Her total gross household income is \$2,178.00 She receives an earned income deduction of \$279.00, and standard deduction of \$199.00 for an adjusted gross income of \$1,700.00 per month. Fifty percent of adjusted gross income equals \$850.00. She receives total shelter deduction of \$858.00; \$858.00 in shelter deduction minus \$850.00 (50% adjusted gross income) equals \$8.00 in excess shelter deduction. \$1,700.00 in adjusted gross income minus

\$8.00 in excess shelter deduction equals \$1,692.00 in monthly net income. The maximum benefit amount allowed for a five-person household is \$760.00 per month. Thirty percent of Petitioner's net income equals \$508.00; \$760.00 maximum benefit minus 30% of Petitioner's net income \$508.00 equals a monthly benefit amount of \$252.00 for a household group of five people. (RFT 260)

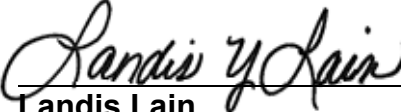
Petitioner's allegation that the FAP calculation is wrong and does not leave her enough FAP benefits to buy food for the entire month because of her other expenses is a compelling equitable argument to be excused from the Department's program policy requirements. This Administrative Law Judge has no equity powers. A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by FAP policy and cannot be changed by the Department or this Administrative Law Judge.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with department policy when it determined that petitioner was eligible for a \$252.00 per month in FAP benefits at the time of determination. The department has established its case by a preponderance of the evidence.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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

Clarence Collins
12140 Joseph Campau
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
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