



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 10, 2018
MAHS Docket No.: 18-005745
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 3, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department or Respondent) was represented by Kenneth Jackson, Family Independence Specialist; and Daniel Davis, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine the amount of Food Assistance Program (FAP) benefits that Petitioner was eligible to receive?

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 a FAP benefit recipient.
2. On April 19, 2018, Petitioner submitted a DHS-1046 Semi annual contact Report which included additional information.
3. On May 10, 2018, the Department caseworker processed the semi-annual report and issued a DHS 1605 Notice of Case Action notifying Petitioner of continued benefits.

4. Petitioner was scheduled for a pre-hearing conference on June 11, 2018, at 10:00 a.m., in which she did not appear.
5. On May 31, 2018, the Department received a Request for Hearing to contest the negative action.
6. Petitioner is contesting the amount of FAP benefits which were allotted to her.
7. The hearing was held July 3, 2018.
8. At the hearing, the Department conceded on the record that Petitioner did include proper information in the DHS 1046 form and that Petitioner's FAP program should be re-evaluated.
9. The Department agreed to re-evaluate Petitioner's FAP budget because Petitioner lost her employment and did properly report the loss in a timely manner. The Department did not reduce Petitioner's income accordingly.

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.

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.

The Department caseworker conceded on the record that the Department did receive information from Petitioner that she had lost her job. FAP benefits were not properly calculated as a result because the loss of income was not budgeted. The Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined Petitioners amount of FAP benefits. The Department decision must be reversed.

DECISION AND ORDER

Accordingly, the Department's determination of Petitioner's Food Assistance Program eligibility amount is incorrect under the circumstances. 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-evaluate Petitioner's Food Assistance Program case and determine the proper amount in accordance with Department policy.
2. If Petitioner is otherwise eligible, pay to Petitioner any FAP benefits to which she is entitled from the semi-annual re-evaluation date forward.

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

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI 49023

Berrien County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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