



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: April 23, 2018
MAHS Docket No.: 18-002815
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 4/19/18, from Lansing, Michigan. Petitioner was represented herself. [REDACTED] appeared as a witness. [REDACTED] interpreter with the Arab American Khaldean Council appeared as a paid subcontractor interpreter with the Michigan Department of Health and Human Services (Department). The Respondent was represented by Rebecca Johnson, APW.

ISSUE

Did the Department properly reduce Petitioner's FAP benefits effective 4/1/18 based on a job start with Petitioner's son?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner and her family were beneficiaries of the FAP program with the Respondent.
2. Petitioner timely reported that her son started a new job on 12/23/17. A new hire report indicates that the job was for less than 2 weeks, ending 1/5/18. Ex A.7.
3. On 3/7/18 the Respondent issued a Notice of Case Action budgeting an increase in income on the FAP budget which effected a decrease to \$249.00 from \$423.00 in FAP benefits.
4. On 3/13/18 Petitioner filed a hearing request.

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 individual who has personal knowledge of this case and who triggered the Notice of Case action was not present at the administrative hearing, and not available for testimony and/or cross-examination. In addition, the local office routinely has a Hearings Facilitator represent the Respondent at these hearings who also was not available for testimony and/or cross-examination. The individual who was present on behalf of the Respondent testified that the disclosure of the new job start was timely, but the Department failed to budget the income timely. Even so, based on the information initially reported, Petitioner's son worked the new job for less than 2 weeks.

In addition, the Respondent's witness indicated that the worker who took the action of 3/7/18, after Petitioner's son no longer worked the job, had made a corrective action to remove the income and reinstate this family's FAP benefits to the prior level effective 4/1/18. However, the corrective action had not been processed as of the date of the administrative hearing.

Based on the representations at the administrative hearing and based on the unrefuted evidence presented that as of the negative action date the budget incorrectly budgeted income that the son was not earning, the action must be reversed as the evidence does not support the same. As such, the Department's action must be reversed.


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. Reassess Petitioner's eligibility, and if indicated, reinstate Petitioner's FAP allotment to the amount approved prior to the negative action of 3/7/18 reducing the allotment effective 4/1/18, and
2. Issue any supplemental benefits to Petitioner to which she is entitled as if this action never took place, if otherwise eligible, and
3. The Department shall issue written notice to Petitioner informing her of the new allotment.

JS/nr


Janice Spodarek
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) 335-6088; 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
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI