



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 18, 2018
MAHS Docket No.: 18-003718
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 16, 2018, from Detroit, Michigan. Petitioner was present and was represented by her Authorized Hearing Representative (AHR), [REDACTED] (Exhibit 1). The Department of Health and Human Services (Department) was represented by Diane Coles, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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 FAP recipient.
2. On April 2, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was increasing to \$33 per month for April 1, 2018, ongoing.
3. On April 13, 2018, Petitioner's AHR submitted a request for hearing.

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, Petitioner's AHR submitted a request for hearing disputing the Department's calculation of Petitioner's FAP benefit amount. Petitioner's AHR testified that Petitioner used to receive a significantly higher FAP benefit amount. The Department issued a Notice of Case Action on April 2, 2018 informing Petitioner she was entitled to \$33 in FAP benefits per month.

FAP budget calculations consider all countable earned and unearned income, group size, as well as deductions such as dependent care expenses, excess shelter, child support, standard deduction and potentially a medical deduction. BEM 500 (July 2017), pp. 1-5; BEM 212 (January 2017), p. 1; BEM 554 (January 2017), p. 1; and BEM 556 (July 2013), p. 3. The only document the Department presented was the first page of the Notice of Case Action issued on April 2, 2018. The Department had no knowledge of the factors considered when calculating Petitioner's FAP benefit amount, nor did the Department present any supporting documentation to establish that the figures it used were correct. Therefore, the Department failed to establish that it acted in accordance with policy when it calculated Petitioner's FAP benefit amount.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefit amount.

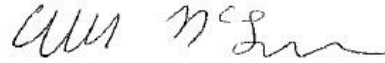
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's FAP eligibility as of April 1, 2018, ongoing;

2. If Petitioner is entitled to additional FAP benefits, issue supplements she is entitled to receive as of April 1, 2018, ongoing;
3. Notify Petitioner of its FAP decision in writing.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Wayne-15-Hearings
M. Holden
D. Sweeney
BSC4-Hearing Decisions
MAHS

**Petitioner –
Via First-Class Mail:**

[REDACTED]

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]