



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 2, 2018
MAHS Docket No.: 18-005314
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 28, 2018, from Lansing, Michigan. [REDACTED] Petitioner's Authorized Representative, appeared on behalf of Petitioner and testified. Petitioner did not appear.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist Brad Reno. Mr. Reno testified on behalf of the Department. The Department submitted 35 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's FAP benefits based on his receipt of Retirement, Survivors and Disability Income (RSDI) from the Social Security Administration?

FINDINGS OF FACT

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

1. On April 9, 2018, Petitioner submitted the Mid-Certification Contact Notice to the Department. [Dept. Exh. 10-12].

2. On April 9, 2018, the Department received the completed Redetermination from Petitioner. [Dept. Exh. 13-20].
3. On April 9, 2018, the Department mailed Petitioner a Verification Checklist requesting current bank statements. [Dept. Exh. 21-22].
4. On April 9, 2018, the Department reviewed the redetermination packet and found a discrepancy between the reported RSDI received by Petitioner, and the amount the Social Security Administration reported Petitioner was receiving. [Dept. Exh. 2].
5. On April 18, 2018, the Department received copies of the requested bank account statements. [Dept. Exh. 23].
6. On April 19, 2018, the Department mailed Petitioner a Notice of Case Action notifying Petitioner that he had been approved for \$192.00 in FAP benefits beginning May 1, 2018, through April 30, 2020. [Dept. Exh. 24-27].
7. On May 15, 2018, the Department mailed Petitioner a Notice of Case Action informing Petitioner his FAP benefits had been decreased to \$81.00 a month beginning June 1, 2018, through April 30, 2020. [Dept. Exh. 28-32].
8. On May 17, 2018, the Department mailed Petitioner a Verification Checklist requesting a copy of Petitioner's RSDI check stubs. [Dept. Exh. 33-34].
9. On May 25, 2018, Petitioner submitted a copy of the Retirement, Survivors and Disability Insurance from the Social Security Administration to the Department, indicating Petitioner received \$765.00 a month in RSDI.

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 Department received the paystub of \$765.00 in RSDI benefits that Petitioner was actually receiving on May 25, 2018. This information was in contrast to the information received from the Social Security Administration by telephone on April 9,

2018, of \$1,130.00. Therefore, the Eligibility Specialist indicated he was redetermining Petitioner's FAP benefits and a new Notice of Case Action would be sent out upon completion of the redetermination. Petitioner did not contest the solution offered by the Eligibility Specialist.

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 decreased Petitioner's FAP benefits.

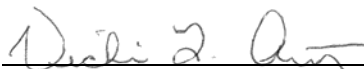
DECISION AND ORDER

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. Redetermine Petitioner's FAP benefits based on receipt of the actual amount of RSDI Petitioner is receiving.
2. Issue an updated Notice of Case Action after completion of the redetermination.

VLA/hb



Vicki Armstrong
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

Lindsay Miller
125 E. Union St 7th Floor
Flint, MI 48502

Genesee County (Union), DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]