



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 14, 2018
MAHS Docket No.: 18-008179
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's August 7, 2018 hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 13, 2018, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner's spouse, appeared for Petitioner. Richkelle Curney, Hearing Facilitator, appeared for the Department. [REDACTED] [REDACTED] Arabic Interpreter, provided interpretation services.

One exhibit was admitted into evidence during the hearing. An 8-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

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 has a household of five, including Petitioner, Petitioner's spouse, and their three children.
2. Petitioner and her spouse have a monthly earned income of approximately \$ [REDACTED] and a monthly unearned income of approximately \$ [REDACTED]
3. Petitioner attends classes two days per week and works 20 hours per week providing home care.
4. Petitioner and her spouse pay \$1,000 per month for housing.

5. Petitioner is a FAP recipient.
6. On July 21, 2018, the Department issued a Notice of Case Action to Petitioner to notify Petitioner that her FAP benefit had been reduced to \$40.00 per month. The notice stated that Petitioner was excluded as a group member because she was not an eligible student. The notice stated it budgeted \$0.00 housing costs.
7. On August 7, 2018, Petitioner filed a hearing request to dispute the Department's decision to reduce her FAP benefit.

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.

The Department's decision is not in accordance with its policies because it erroneously excluded Petitioner as a group member and it erroneously omitted Petitioner's housing costs. Petitioner should not have been excluded as a group member because she was an eligible student since she was enrolled half-time or more and working an average of 20 hours or more per week. BEM 245 (January 1, 2018), p. 3-4. The Department should have considered Petitioner's housing costs in addition to the heat/utility standard because Petitioner had a \$1,000 housing cost other than utilities. BEM 554 (August 1, 2017), p. 13-20.

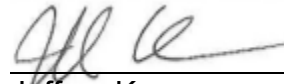
DECISION AND ORDER

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 did not act in accordance with its policies and the applicable law when it issued its July 21, 2018 Notice of Case Action.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's FAP benefits in accordance with this decision.

JK/nr



Jeffrey Kemm
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

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]
[REDACTED], MI
[REDACTED]