



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: September 14, 2018
MAHS Docket No.: 18-008266
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 September 13, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Christina Williams, Assistance Payments Worker. During the hearing, four multi-page documents were offered and admitted as Exhibit A through Exhibit D.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits, effective August 1, 2018?

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 an ongoing FAP recipient.
2. In May of 2018, Petitioner reported a dependent care expense of \$600 per month for her minor child's childcare. Exhibit A, pp. 6-8.
3. On June 4, 2018, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP

benefits. Petitioner was required to return the completed Redetermination by July 5, 2018. Exhibit D, pp. 1-10.

4. On June 15, 2018, Petitioner returned to the Department the completed Redetermination. On the Redetermination, Petitioner reported no changes to her dependent care expenses. Exhibit D, pp. 1-10.
5. On July 30, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was eligible for FAP benefits of \$125 per month, effective August 1, 2018. Exhibit C, pp. 1-2.
6. On August 8, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's calculation of her FAP benefits, including the Department's failure to consider her dependent care expenses.

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 objects to the Department's calculation of her monthly FAP benefits, effective August 1, 2018. Petitioner's position is that she reported dependent care expenses in May 2018 and even provided verifications of those expenses. Despite allegedly providing those verifications, the Department failed to consider the reported expenses in calculating her FAP benefits, effective August 1, 2018.

During the hearing, Petitioner agreed that the Department's budgeted monthly earned income of [REDACTED] and unearned income of [REDACTED] for her group were accurate. Petitioner also agreed that the Department properly applied the h/u standard in the budget. Petitioner testified that her monthly housing expense was actually \$1,204, not the \$1,225 budgeted by the Department. However, Petitioner testified that she paid \$600 per month in dependent care. That expense was reported to the Department, and the Department conceded on the record that it failed to give Petitioner credit for that reported expense when calculating Petitioner's benefits. The Department presented no evidence to rebut Petitioner's testimony that she reported and verified the expenses. Additionally, the Department's own records show that Petitioner, in fact, did report the

expense back in May of 2018. With the dependent care expense factored into the equation, Petitioner's monthly FAP benefit would increase.

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 benefits.

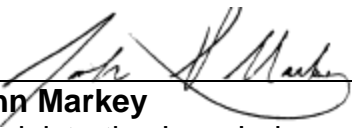
DECISION AND ORDER

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. Recalculate Petitioner's FAP benefits effective August 1, 2018, ongoing, taking into consideration Petitioner's reported dependent care expense, in addition to any other applicable expenses;
2. If Petitioner is found eligible for additional benefits, issue Petitioner supplemental FAP benefits; and
3. Notify Petitioner in writing of its decision.

JM/dh



John Markey
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

Jeanenne Broadnax
25637 Ecorse Rd.
Taylor, MI 48180

Wayne County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

MI