



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: October 25, 2018
MAHS Docket No.: 18-009814
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 3-way telephone hearing was held on October 18, 2018, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Brandy Guinn Family Independence Manager. Department Exhibit 1, pp. 1-25 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) and Child Development and Care (CDC) 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 was a recipient of FAP and CDC benefits.
2. On April 10, 2018, Notice of Potential Child Development and Care Closure was sent to Petitioner informing her that her CDC benefits would close of April 30, 2018. (Ex. 1, p.3)
3. On April 20, 2018, Petitioner received \$2250 from the Social Security Administration on behalf of a child in her care. (Ex. 1, p.16)
4. On May 23, 2018, Petitioner received \$2300 from the Social Security Administration on behalf of a child in her care. (Ex.1, p.16)

5. On June 25, 2018, Petitioner applied for Medicaid benefits on behalf of a child in her care.
6. On July 11, 2018, Petitioner's income was updated to include unearned income received by children in Petitioner's care. This resulted in a reduction in FAP benefits to \$23 per month.
7. On September 11, 2018, Petitioner requested hearing disputing the determination of her FAP and CDC benefits.
8. Petitioner's FAP benefits were increased to \$461 per month effective October 1, 2018.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Current SSA-Issued SSI SDA, CDC, and FAP Only

Bridges counts the gross amount of current SSA-issued SSI as unearned income. SSI amounts withheld to recoup overpayments due to an intentional program violation (IPV) as defined below are also included in the gross amount. BEM 503

Averaging Income

When income is received in one month but is intended to cover several months (such as, contractual income, farm income, etc.), establish a monthly average amount if the benefit month is one of the months covered by the income.

Establish the monthly average by dividing the income by the number of months it covers. This amount is considered available in each of the months covered by the income. Do not use overlapping months when averaging.

Bridges will compute the average monthly amount based on the amounts entered and the number of months you indicate the income covers. BEM 505

All Programs

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600

In this case, with regard to CDC benefits Petitioner's September 11, 2018, request for hearing was untimely as it relates to the April 30, 2018 closure because the request for hearing was received more than 90 days after the Department action. BAM 600


With regard to FAP benefits, Petitioner disputed the reduction in FAP benefits because the lump sum payment she received on behalf of the child from the social security administration could only be used for certain purposes. Department policy states that income that is intended to cover several months should be averaged. This was the procedure utilized by the Department and it was proper and correct. BEM 505

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 acted in accordance with Department policy when it determined Petitioner's FAP and CDC benefits.

DECISION AND ORDER

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

AM/nr



Aaron McClintic
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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI
48071

Oakland 2 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

L. Brewer-Walraven- via electronic mail

Petitioner

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