



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: December 21, 2018
MAHS Docket No.: 18-012148
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 December 20, 2018, from Lansing, Michigan. The Petitioner was represented by Rita Terrell. The Department of Health and Human Services (Department) was represented by Richkell Curney, Hearings Facilitator.

ISSUE

Did the Department properly determine the amount of Food Assistance Program benefits (FAP) that Petitioner was eligible to receive?

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 a FAP benefit recipient.
2. Until July 19, 2018, Petitioner was receiving \$ [REDACTED] in monthly FAP benefits.
3. A new budget was generated, and the Department determined that Petitioner was eligible to receive \$ [REDACTED] in FAP benefits from July 19, 2018 forward.
4. Petitioner was not working from June through September 2018 because the school at which she was employed was recessed for the summer.

5. On September 25, 2018, the Department received updated income verification and determined that Petitioner was eligible to receive \$ [REDACTED] in monthly FAP benefits.
6. On November 16, 2018, the Department sent Petitioner Notice of Case Action indicating that her FAP was reduced to \$ [REDACTED] per month.
7. On November 19, 2018, the Department received a Request for Hearing.
8. On December 3, 2018, the Michigan Administrative Hearing system received a Hearing summary and attached documents.

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.

Pertinent Department policy dictates:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

In this case, the Hearings Facilitator who testified is not the person who worked on the case. There were no budgets from any month provided to Petitioner to explain how the Department assessed FAP benefit eligibility. None of the documents attached to the Hearing Summary explained how the Department made its assessment. No one from Department appeared to explain the changes in the FAP benefit amounts.

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 has not established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with department policy when it determined that Petitioner was eligible for a \$ [REDACTED] per month in Food Assistance Program benefits. The Department has not established its case by a preponderance of the evidence.

DECISION AND ORDER

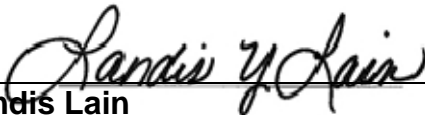
Accordingly, the Department's decision to reduce Petitioner's Food Assistance benefit allotment is **REVERSED**.

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. The Department shall allow Petitioner to provide proof of her employment income from the months of June 2018 to present.
2. The Department shall determine the amount of FAP benefits for Petitioner for the months of June 2018-August 2018, when Petitioner was not working and pay to Petitioner any additional FAP benefits to which she is entitled, if any.

3. The Department shall determine the amount of FAP benefits for the months of September 2018 forward, when Petitioner returned to work and pay to Petitioner any additional FAP benefits to which she is entitled, if any.

LL/hb



Landis Lain
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 County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

