



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 27, 2018
MAHS Docket No.: 18-012154
Agency No.: [REDACTED]
Petitioner: [REDACTED] e

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 December 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearings Facilitator. During the hearing, a 25-page packet of documents was offered and admitted as Exhibit A, pp. 1-25.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits, effective November 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 was an ongoing FAP recipient with a group size of four.
2. On September 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 October 1, 2018.
3. On September 24, 2018, Petitioner returned to the Department the completed Redetermination.

4. On October 1, 2018, Petitioner reported to the Department that her son had moved out of the home.
5. On November 6, 2018, Petitioner reported to the Department that her daughter was no longer was working as a home health aide and that her income with her parking job was not regular.
6. The Department did not send out any Notice of Case Action informing Petitioner of her redetermined FAP benefits. Instead, Petitioner was issued \$[REDACTED] in FAP benefits for the month of November 2018 on November 16, 2018. Petitioner also received \$[REDACTED] in FAP benefits for the month of December 2018. For each month, the Department found that Petitioner had \$999 in monthly earned income based on her daughter's income as a home health aide and with the parking company.
7. On [REDACTED] 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 changes of household income.

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 November 1, 2018. Petitioner's position is that she reported a loss of income on November 6, 2018, and that the Department improperly budgeted the other income source. The Department failed to consider the reported income changes in calculating her FAP benefits, effective November 1, 2018.

During the hearing, the Department acknowledged that it had a systemwide failure of sending required notices, causing Petitioner to be deprived of her right to notice with respect to the actions taken concerning her FAP benefits.

Petitioner disagreed with the Department's budgeted monthly earned income of \$999 for the months of November and December 2018, all on account of jobs held by Petitioner's daughter. Petitioner testified that her daughter worked only two days for the parking job in September 2018. Despite only working two days from that date until

present, the Department was budgeting about \$■■■ per month from that job. Likewise, Petitioner reported to the Department on November 6, 2018, that her daughter was no longer working as a home health aide, yet the Department budgeted almost \$■■■ per month for the months of November and December 2018.

That income changes and circumstances were reported to the Department, and the Department conceded on the record that it continued to budget Petitioner's household income as though Petitioner did not make any change reports. The Department presented no evidence to rebut Petitioner's testimony that she reported the income as reflected above. With the income decreases 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 for November and December 2018.

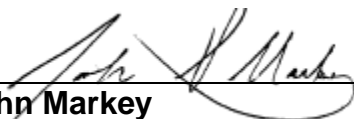
DECISION AND ORDER

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 for November 2018, taking into consideration Petitioner's income for that month;
2. Recalculate Petitioner's FAP benefits effective December 1, 2018, ongoing, taking into consideration Petitioner's household income;
3. If Petitioner is found eligible for additional benefits, issue Petitioner supplemental FAP benefits; and
4. 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

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Wayne County (District 41), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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