



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 6, 2018
MAHS Docket No.: 18-007754
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 August 30, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Lynda Brown, Hearings Facilitator, and Terry Glenn, Family Independence Specialist. During the hearing, a hearing packet consisting of 75 pages of documents was offered and admitted into evidence as Exhibit A, pp. 1-75.

ISSUE

Did the Department properly calculate 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 was an ongoing FAP recipient with a group size of three receiving \$ [REDACTED] per month in FAP benefits.
2. The Department discovered in July of 2018 that it was calculating Petitioner's FAP benefits without taking into account Petitioner's proper household income.
3. The Department took the missing information into account and recalculated Petitioner's FAP benefits.

4. On July 6, 2018, the Department issued a Notice of Case Action to Petitioner informing Petitioner that her new monthly FAP benefit amount would be \$■■■■ effective August 1, 2018. Exhibit A, pp. 69-70.
5. On July 23, 2018, the Department issued a Notice of Case Action to Peittioner informing Petitioner that her new monthly FAP benefit amount would be \$■■■■ This change was a result of a change in the heating and utility (h/u) standard. Exhibit A, pp. 71-73.
6. On ■■■■ 2018, Petitioner filed a hearing request objecting to the reduction of her FAP benefits.

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 the present case, Petitioner had an open FAP benefits case, receiving the maximum monthly benefit for a group her size. The Department's calculation of Petitioner's benefit amount, however, failed to take into account all of the reported income in the household. After recalculating Petitioner's FAP benefits based on her actual household income, the Department issued a Notice of Case Action substantially reducing her monthly benefit amount. A couple of weeks later, another Notice of Case Action was issued further reducing Petitioner's benefits by \$■■ per month as a result of a reduction of the h/u standard.

During the hearing, Petitioner agreed that the Department's budgeted monthly unearned income of \$■■■■ for her group was accurate. Petitioner also agreed that the Department properly applied the h/u standard in both July of 2018 recalculations. However, Petitioner objected to the Department's housing expense findings. Petitioner testified that she paid \$■■■■ per month plus homeowner's insurance. That expense was reported to the Department, and the Department conceded on the record that it improperly failed to give Petitioner credit for that reported expense when calculating Petitioner's benefits. With the insurance 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 the homeowner's insurance 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

Lauren Casper
27690 Van Dyke
Warren, MI 48093

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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