



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: November 20, 2018  
MAHS Docket No.: 18-010743  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 14, 2018, from Lansing, Michigan. Petitioner was represented by herself and her daughter [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Haysem Hosny.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) 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. On August 31, 2018, the Michigan Administrative Hearing System (MAHS) ordered the Department to reprocess Petitioner's application for Food Assistance Program (FAP) benefits. MAHS Docket No. 18-007272.
2. On September 5, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of housing expenses by September 17, 2018. Exhibit A, pp 2-3.
3. Petitioner received a \$192 allotment of Food Assistance Program (FAP) benefits from July 1, 2018, through November 30, 2018, a \$70 allotment for June of 2018, and a \$51 allotment for May of 2018. Exhibit A, p 4.

4. On October 4, 2018, the Department received Petitioner's request for a hearing. Exhibit A, p 1.

### **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.

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 (January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

On August 31, 2018, MAHS ordered the Department to reprocess Petitioner's application for FAP benefits. No evidence was presented on the record that this order

was appealed by the Department. The record evidence indicates that Petitioner has received the maximum allotment of FAP benefits for a group of one in each month except for May and June of 2018.

No evidence of fluctuating income was presented on the record. In months that Petitioner is eligible for the heat and utility standard deduction, Petitioner's net countable income is \$0 per month. The Department's evidence indicates that Petitioner's shelter expenses make her shelter unaffordable, but even if this is accurate, no authority for the relevance of this finding was offered. Further, the heat and utility standard deduction is not based on actual expenses, and is not prorated when actual expenses are shared with non-group members.

The Department was ordered to determine Petitioner's eligibility from the date of her application for FAP benefits. Petitioner filed a request for a hearing protesting that revised determination in a timely manner. Therefore, the Michigan Administrative Hearing System (MAHS) has jurisdiction to hear Petitioner's complaint and issue a final decision.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits as of May 1, 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:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits effective May 1, 2018, and ongoing, in accordance with policy and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/hb

  
\_\_\_\_\_  
**Kevin Scully**  
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**

Vivian Worden  
41227 Mound Rd.  
Sterling Heights, MI 48314

Macomb County (District 36), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]