



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 18, 2016
MAHS Docket No.: 16-000788
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 10, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with her mother, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits.
2. On or around March 4, 2015, Petitioner submitted proof of her shelter expense to the Department.
3. The Department failed to timely process Petitioner's reported shelter increase, which resulted in Petitioner being under-issued FAP benefits for the period of April 1, 2015, ongoing.

4. The Department processed Petitioner's shelter increase in January 2016 with an effective date of November 2015. (Exhibit C)
5. On January 11, 2016, the Department sent Petitioner a Notice of Case Action informing her that effective November 1, 2015, ongoing, she was eligible for \$194 in FAP benefits. (Exhibit C)
6. The Notice further informed Petitioner that she was to receive a FAP supplement of \$144 towards the amount of her under-issued benefits for the period of November 1, 2015, to January 31, 2016. (Exhibit C)
7. Petitioner confirmed receiving the \$144 FAP supplement for the period of November 1, 2015, to January 31, 2016.
8. The Department was unable to manually issue FAP supplements to Petitioner for the remaining amount of under-issued FAP benefits for the period of April 1, 2015, to October 31, 2015.
9. On January 13, 2016, the Department requested a Remedy Ticket to the Help Desk (Ticket Number: ██████████) in order to properly supplement Petitioner for FAP benefits owed to her for the period of April 1, 2015, to October 31, 2015. (Exhibit A)
10. On January 19, 2016, Petitioner requested a hearing disputing the Department's actions.

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.

Petitioner requested a hearing disputing the Department's actions regarding her FAP case. Specifically, Petitioner disputed the Department's failure to supplement her for under-issued FAP benefits for the period of April 1, 2015, through October 31, 2015. It was established at the hearing that Petitioner was under-issued FAP benefits during this period because the Department failed to timely process her reported change in shelter

expense. The Department testified that it was able to correct and issue a FAP supplement to Petitioner for the period of November 1, 2015, through January 31, 2016, which Petitioner confirmed.

At the hearing, the Department stated that it requested assistance from the Help Desk in order to issue Petitioner the FAP supplement for which she is entitled, however, after the hearing request was received, the Department received notification from the Help Desk that it rejected the ticket and would not issue Petitioner the supplement because it determined that the verification of shelter provided was unacceptable, as it was an unsigned lease. The Help Desk contended that Petitioner needed to submit a signed lease in order to be eligible for the FAP supplement. (Exhibit B).

The Department representative present for the hearing stated that the Department was not in agreement with the Help Desk's assessment and maintained that Petitioner should be eligible for the FAP supplement, based on the shelter verification policies contained in BEM 554 and BEM 556, which do not require that the shelter verification or that the lease be signed. See BEM 554 (October 2015), pp. 12-14; BEM 556 (July 2013). Notwithstanding the above referenced policy, the Department stated that it obtained a copy of Petitioner's signed and complete lease. The Department stated that prior to the hearing and on March 9, 2016, it requested another Help Desk Ticket (Ticket Number: ██████████) in order to properly supplement Petitioner for the FAP benefits she was entitled to receive. (Exhibit D). The Department conceded that Petitioner was entitled to receive the maximum amount of FAP benefits allowable for a group size of one for the period of April 1, 2015, through October 31, 2015, and acknowledged that she should be supplemented for missed benefits. See BAM 406 (July 2013). Based on the Department's testimony, Petitioner should have received \$194 in monthly FAP benefits for the period of April 1, 2015, through October 31, 2015, but instead actually received a lesser amount. Thus, Petitioner is to receive a FAP supplement to correct the under issuance for the period of April 1, 2015, through October 31, 2015, and which is equal to the difference between the maximum amount of \$194 and the actual amount issued each month.

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 did not act in accordance with Department policy when it failed to supplement Petitioner for under-issued FAP benefits for the period of April 1, 2015, to October 31, 2015.

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. Issue FAP supplements to Petitioner for the difference between the maximum amount of FAP benefits allowable for a group size of one (\$194) and the amount of FAP benefits actually received for the period of April 1, 2015, through October 31, 2015, in accordance with Department policy.



ZB/tlf

Zainab Baydoun
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) 335-6088; 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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

via electronic mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]