



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 31, 2016
MAHS Docket No.: 16-001908
Agency No.: [REDACTED]
Petitioner: Ardella Green

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 30, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly reduce 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. In connection with an application for State Emergency Relief (SER) benefits Petitioner submitted to the Department, the Department became aware that it was improperly budgeting Petitioner's housing expenses in her FAP budget.
3. On February 5, 2016, the Department sent Petitioner (i) a Verification Checklist (VCL) requesting verification of current property taxes by February 16, 2016; and (ii) a Notice of Case Action notifying her that her FAP benefits were decreasing to [REDACTED] monthly, effective March 1, 2016 (Exhibits E and F).

4. On February 16, 2016, the Department received Petitioner's written request for hearing disputing the reduction in 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.

Petitioner requested a hearing concerning the reduction in her FAP benefits. The Department presented evidence that on February 5, 2016, it sent Petitioner a VCL requesting proof of current property taxes by February 16, 2016 (Exhibit F). That same day, it sent Petitioner a Notice of Case Action that her FAP benefits were decreasing to \$80 monthly, effective March 1, 2016 (Exhibit E). The Department explained that Petitioner's FAP benefits were reduced because, after it discovered that the shelter expenses in the FAP budget were not current, shelter expenses were removed from her FAP budget.

The Department may send a negative action notice concerning a FAP case when (i) the client indicates a refusal to provide a verification; **or** (ii) the time period given to provide has elapsed and the client has not made a reasonable effort to provide the verification. BAM 130 (January 2016), p 5. A shelter expense may not be removed unless the client fails to verify a reported change in shelter. BEM 554 (October 2015), p. 14.

Because Petitioner did not indicate a refusal to provide the requested property tax verification and the time period to provide the verification had not lapsed, the Department did not act in accordance with Department policy when it recalculated Petitioner's FAP benefits to exclude the shelter expenses and notified her of the reduction in FAP benefits prior to the verification due date. Because the Department did not send a proper Notice of Case Action, it did not remedy its error when it claimed that it had delayed the effective day of the negative action to April 1, 2016, when it discovered the error.

At the hearing, the Department acknowledged that it had received verification of Petitioner's current property taxes on February 23, 2016. Although the verification was

received after the VCL due date, because Petitioner was never mailed a proper Notice of Case Action, the verification should be processed as a timely received change. See BAM 220 (January 2016), p. 13; BAM 105 (July 2015), p. 11.

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 recalculated and reduced Petitioner's FAP benefits before allowing her to verify her shelter expenses.

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 March 1, 2016 ongoing to include verified property tax expenses;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from March 1, 2016 ongoing; and
3. Notify Petitioner in writing of its decision.

AE/tm



Alice C. Elkin
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]

cc:

[REDACTED]