



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.: 16-002704
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 Lansing, Michigan. Petitioner appeared and represented herself. [REDACTED] (Petitioner's mother) testified as a witness for Petitioner. [REDACTED] (Assistance Payments Worker) represented the Department of Health and Human Services (Department). [REDACTED] (Assistance Payments Supervisor) also appeared on behalf of the Department.

ISSUE

Did the Department properly reduced Petitioner's Food Assistance Program (FAP) monthly allotment?

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 received \$ [REDACTED] per month in FAP benefits with a group size of 2. [Exhibit 1, p. 6].
2. At the time, Petitioner paid approximately \$ [REDACTED] for her monthly rent expense.
3. Petitioner had three jobs at the time. She was employed at [REDACTED], [REDACTED], and [REDACTED].
4. In August, 2015, Petitioner ended her employment with [REDACTED].

5. On September 17, 2015, Petitioner entered the Department's local office (Oakland County-Madison Heights) and used the public computer in the lobby to report a change in her employment and income (i.e., that she was no longer employed at [REDACTED]). [Exh. 2, pp. 1, 4-5].
6. On October 29, 2015, the Department received verification that Petitioner's monthly rent expense would decrease to \$ [REDACTED] effective November 1, 2015. [See Exh. 1, p. 14; Exh. 2, pp. 1, 7].
7. The Department did not process Petitioner's change of employment/income.
8. On November 24, 2015, Petitioner entered the local office used the computer in the lobby to complete her Semi-Annual Contact Report and again indicated that she no longer was employed at the [REDACTED] effective August, 2015. [Exh. 2, pp. 1, 8-11].
9. The Department failed to process Petitioner's reported change of employment/income.
10. On January 4, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which indicated that Petitioner's monthly FAP amount was decreased to \$ [REDACTED] effective January 1, 2016. [Exh. 1, pp. 2-3].
11. On January 20, 2016, Petitioner entered the local office for a third time and used the public computer in the lobby to report that she was no longer employed at The [REDACTED]. [Exh. 2, pp. 1, 12-14].
12. The Department failed to process Petitioner's reported change in income/employment.
13. On February 26, 2016, Petitioner requested a hearing to dispute the FAP reduction from \$ [REDACTED] to \$ [REDACTED] and argued that the Department failed to timely process her reported changes in income/employment. [Request for Hearing].
14. On February 26, 2016, the Department mailed Petitioner a Verification Checklist (DHS-3503) which requested verifications of Petitioner's wages, salaries, tips, commissions as well as loss of employment. [Exh. 1, pp. 4-5].

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.

Bridges will evaluate each change reported and entered in the system to determine if it affects eligibility. A **negative action** is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means. BAM 220 (1-1-2016), p. 1.

The standard of promptness (SOP) is the maximum time allowed to complete a required case action. **Cases should be processed as quickly as possible.** The SOP sometimes varies by program. BAM 220, p. 6. (Emphasis added).

For all programs, case actions resulting from changes reported via tape match (BEN-DEX, SDX, IRS, enumeration, etc.) must be completed within 45 days of receiving the information. It is a best practice to resolve information obtained from a State New Hires report and/or a National Directory of New Hires report within 21 calendar days from the date the match is reported to the specialist. BAM 220, p. 6.

[The Department must] act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220, p. 7. **For FAP only, [the Department must] act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, p. 7. If the reported change will decrease the benefits or make the household ineligible, action must be taken and a notice issued to the client within 10 days of the reported change. BAM 220, p. 8. [Emphasis added].**

BAM 220 at page 8, provides the following two examples:

Example: Debra calls on March 22nd and reports that her husband left the home. Act on the change and issue the negative action notice by April 1st. The change will be effective for May's benefits. See BAM 220, p. 8.

Example: Mary calls on March 19th and reports that her rental expense went from \$300 per month to \$250 per month. Even though Mary must be allowed 10 days to return verification of her decreased shelter costs, act on this change and issue the negative action notice by March 29th. If the verification is not returned within 10 days, begin a second negative action to remove the expense completely. See BAM 220, p. 8.

Policy requires the Department enter all changes in Bridges by changing the affected data elements. In addition, the Department must certify the eligibility results in Bridges for all appropriate benefits and benefit periods. BAM 220, p. 10.

BEM 505 sets forth when the Department must complete a budget. For FAP purposes, client reporting requirements **do not** necessarily affect when a budget must be completed.

However, policy dictates that the Department must complete a budget when either:

- The department is made aware of or the client reports a change in income that will affect eligibility or benefit level.
- A reported change results in the need to convert income to or from a standard monthly amount.

See BEM 505 (7-1-2015), p. 9.

In addition, BEM 505, page 9 provides the following examples:

Example 1: The client reports a change on 11/15 in unearned income of \$5 that will continue beyond December. Complete a new budget to reflect the change in income. (Even though the client did not have to report the change, once reported, a budget must be completed.)

Example 2: The client reports on 11/23 that her job is on 3 week-shut down, due to an equipment changeover. She will receive only two checks in November and only three instead of four in December. She is paid weekly. You cannot affect November benefits. Complete a budget for December, entering zero income for the pay date in which she will not receive a check. Convert income (Bridges will do this for you) - add the check amounts together (including the \$0), divide by 4, and then multiply by 4.3. Complete another budget for January, using a full month's income.

See BEM 505 (7-1-2015), p. 9.

If verification is required or deemed necessary, you must allow the household 10 days from the date the change is reported or the date you request verification to provide verification. **The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported.** For example, if the Department requests verification on 11/25. [The client] provides the verification on 12/2. [The Department] must make the change to affect December's benefits by issuing a supplement. BEM 505, pp. 10-11. (Emphasis added).

In the instant matter, Petitioner requested a hearing because the Department reduced her FAP benefits from \$ [REDACTED] per month to \$ [REDACTED] per month. Petitioner testified that she reported that she stopped working at one of her three jobs ([REDACTED]) on three separate occasions, but the Department failed to process this change. Petitioner

reports that the Department only processed the change (reduction) in her monthly rent expense but did not include her reduction in income from lost employment when it budgeted her FAP case. As a result, Petitioner asserts, the Department incorrectly reduced her monthly FAP amount. According to Petitioner, had the Department timely and properly processed her employment/income change when she first reported it in September, 2015, Petitioner's monthly FAP would not have been reduced.

The Department representative who attended the hearing testified that she is not the current worker assigned to this case. The Department representative further did not challenge Petitioner's assertions that she reported changes in her employment situation as early as September, 2015. The Department representative was unaware of any policy that provided a time limit for the Department to act upon a reported change for purposes of FAP benefits.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. As indicated by BAM 220, page 6, cited above, "[c]ases should be processed as quickly as possible." In addition, BAM 220, page 8 provides an example that shows the Department must make the change after the client reports it for the following month.

In this case, the record shows that Petitioner, on September 17, 2015, initially reported to the Department that she had a change in employment and income by using the public computer located in the local office lobby. [See Exh. 1, pp. 1, 4-5]. According to BAM 220, page 7, because this was a FAP case, the Department was required to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. It should be noted that in this case the change was reported by Petitioner rather than a tape match. Accordingly, the Department had 10 days from September 17, 2015 to act on Petitioner's report that she had lost her employment at [REDACTED]. The Department failed to do so until March, 2015 when it sent Petitioner a verification checklist. This was well after the Department already processed Petitioner's rent reduction and recalculated her FAP case. However, this was not correct because the Department had used incorrect income amounts (which included income from the Romaine Group where Petitioner was no longer employed since August, 2015). Instead, the Department mailed Petitioner a notice of case action on January 4, 2016 which reduced her monthly FAP based on the recent reduction in the shelter expense, but with the incorrect income amount.

The material, competent and substantial evidence on the whole record shows that the Department erred when it failed to timely process Petitioner's change in income and employment, while at the same time processed her decrease in shelter expense. This error led to an incorrect FAP reduction amount referenced in the January 4, 2016 notice of case action.

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 reduced Petitioner's monthly FAP allotment as set forth in the January 4, 2016 notice of case action.

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. The Department shall redetermine and/or reprocess Petitioner's FAP benefits back to October 1, 2015 (which is the month after Petitioner reported her change in income/employment).
2. The Department shall determine whether Petitioner is entitled to retroactive and/or supplemental FAP benefits pursuant to applicable policies.
3. The Department shall provide Petitioner with written notification of its decision.
4. The Department shall request a remedy ticket to implement the above, if necessary.

IT IS SO ORDERED.

CP/las



C. Adam Purnell
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]

Petitioner

[REDACTED]