



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 15, 2016
MAHS Docket No.: 16-005574
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 May 25, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUES

Did the Department properly calculate Petitioner's Family Independence Program (FIP) benefits effective [REDACTED]?

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) allotment effective [REDACTED]?

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 is an ongoing recipient of FIP and FAP benefits. See Exhibit B, pp. 1-4.
2. On [REDACTED], Petitioner applied for FIP benefits and reported that she was off work on an unpaid medical leave (stopped income). See Exhibit A, p. 1.
3. As a result of Petitioner reporting that her income had stopped, the Department sent Petitioner a Verification of Employment (DHS-38) (employment verification)

- on [REDACTED] to verify the stopped income. See Exhibit A, pp. 6-7. The employment verification was due back by [REDACTED]. See Exhibit A, p. 6.
4. The Department initially reported that it did not receive the employment verification by the due date. See Exhibit A, p. 1.
 5. On an unspecified date, the Department checked The Work Number, which reported that Petitioner was still listed as active at her employment. See Exhibit A, p. 1.
 6. Due to The Work Number reporting that Petitioner is still active for employment and that it did not receive the employment verification, the Department continued to budget Petitioner's employment earnings.
 7. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to \$521 effective [REDACTED]. See Exhibit B, pp. 5-8. Petitioner's FAP benefits decreased from \$649 to \$521. See Exhibit B, p. 1.
 8. Effective [REDACTED], the calculation of Petitioner's FIP allotment included the Department budgeting her earned income.
 9. Effective [REDACTED], the calculation of Petitioner's FAP allotment included the Department budgeting her earned income. See Exhibit B, p. 7.
 10. On [REDACTED], the Department initially reported that it received the employment verification. See Exhibit A, pp 1 and 6-7.
 11. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Preliminary matter

In the present case, Petitioner argues that the Department (i) improperly calculated her FIP benefits effective [REDACTED] and (ii) improperly calculated her FAP benefits effective [REDACTED]. Petitioner claims that the Department continued to budget her employment earnings for the above time periods, when in fact her income had stopped. Thus, Petitioner argues that the Department should not have continued to budget her employment earnings for the above effective dates, which would have resulted in an increase in her FAP and FIP allotments. It should also be noted that Petitioner received supplements for her FIP and FAP benefits effective [REDACTED], which would appear to mean that the Department began excluding her earned income from the FAP and FIP budgets effective [REDACTED]. See Exhibit B, pp. 1-4. However, these actions occurred subsequent to the hearing request date and the undersigned lacks any jurisdiction to address these actions. See BAM 600 (October 2015), pp. 1-6. Nonetheless, the undersigned will still address Petitioner's FIP benefits effective [REDACTED], and the FAP benefits effective [REDACTED] separately below:

FIP benefits

In the present case, the Department initially reported that it did not receive the employment verification until [REDACTED]. See Exhibit A, p. 1. However, during the hearing, the Department testified it received the employment verification from Petitioner on [REDACTED], but that it received duplicate pages of only the second page of the employment verification and it did not have the first page of the employment verification. The Department testified that it does not know if this was client or agency error (whether the first page was received or not on [REDACTED]).

In response, Petitioner testified that she faxed the Department both pages of the employment verification on two separate occasions on [REDACTED]. As part of the evidence record, the Department included the employment verification that indicated the following: (i) employment verification has a Department received stamped date of [REDACTED]; (ii) the employer signed the employment verification on [REDACTED]; and (iii) the employment verification reported her last date paycheck was [REDACTED], [REDACTED] and that she was on a leave of absence since [REDACTED]. See Exhibit A, pp. 6-7.

Based on the foregoing information and evidence, the Department improperly calculated Petitioner's FIP allotment effective [REDACTED], in accordance with Department policy.

First, the undersigned finds Petitioner's testimony credible that she submitted both pages of the employment verification on [REDACTED]. Petitioner's credibility is supported by the fact that the employment verification was provided as part of the evidence record and it shows that the employer signed the document on [REDACTED]. See Exhibit A, pp. 6-7. The fact that the document was signed on [REDACTED] would support her credibility that she would have faxed the entire document three days after. See Exhibit A, pp. 6-7. Moreover, the Department acknowledged that it received a fax on [REDACTED], which would also support Petitioner's argument that she submitted both pages of the verification on that date.

Second, because the undersigned finds that the Petitioner submitted both pages of the employment verification on [REDACTED], this means that she submitted the verification timely. Policy states that the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. See BAM 130 (January 2016), p. 6. Furthermore, verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Because the evidence and testimony established that the Department received the fax on [REDACTED], Petitioner submitted the employment verification timely by the [REDACTED] due date. See Exhibit A, pp. 6-7 and BAM 130, pp. 6-7.

Third, policy states that the Department verifies income at application and at redetermination. BEM 505 (July 2015 and April 2016), pp. 13-14. The Department verifies changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505, pp. 13-14. The Department verifies income that stopped within the 30 days prior to the application date or while the application is pending before certifying the Eligibility Determination Group (EDG). BEM 505, pp. 13-14 and see also BEM 501 (July 2014), p. 9 (verification requirement of employment income). Because Petitioner properly reported, on her FIP application, that her earned income had stopped and that she submitted the verifications timely, the Department should not have budgeted her employment earnings for her FIP allotment effective [REDACTED]. See BEM 501, p. 9 and BEM 505, p. 14. The Department is ordered to recalculate Petitioner's FIP budget and exclude her earned income from the FIP budget effective [REDACTED].

FAP benefits

For stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505, p. 7. The Department uses the best available information to determine the amount of the last check expected. BEM 505, p. 7. The Department uses information from the source and from the client. BEM 505, p. 7. The Department removes stopped income from the budget for future months. BEM 505, p. 7.

In the present case, the testimony and evidence established the following: (i) the Department was aware that Petitioner reported that her employment earnings had ended on the FIP application dated [REDACTED]; and (ii) that she timely submitted verification that her employment earnings had ended. See Exhibit A, pp. 1 and 6-7. Because Petitioner properly reported on her FIP application that her earned income had stopped and that she submitted the verifications timely, the Department should not have budgeted her employment earnings for her FAP allotment effective [REDACTED]. See BAM 105 (July 2015 and April 2016), pp. 10-11 (responsibility to report changes); BAM 220 (January 2016 and April 2016), pp. 7-8 (case actions - all other reported changes); and BEM 505, p. 7. The Department is ordered to recalculate Petitioner's FAP budget and exclude her earned income from the FAP budget effective [REDACTED].

DECISION AND ORDER

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 (i) did not act in accordance with Department policy when it improperly calculated Petitioner's FIP allotment effective [REDACTED]; and (ii) did not act in accordance with Department policy when it improperly calculated Petitioner's FAP allotment effective [REDACTED].

Accordingly, the Department's FIP and FAP 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 FIP budget and exclude her earned income from the FIP budget effective January 16, 2016;
2. Recalculate Petitioner's FAP budget and exclude her earned income from the FAP budget effective [REDACTED];
3. Issue supplements to Petitioner for any FIP and FAP benefits she was eligible to receive but did not from [REDACTED] for the FIP benefits and [REDACTED] for the FAP benefits; and
4. Notify Petitioner of its decision.

EF/hw



Eric J. Feldman

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]