



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: November 7, 2016
MAHS Docket No.: 16-014262
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 October 31, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payment Supervisor.

ISSUE

Did the Department properly increase Petitioner's FAP benefits effective [REDACTED] instead of [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 FAP recipient.
2. On [REDACTED], Petitioner submitted an online change report which notified the Department that she would receive her final unemployment benefit payment on [REDACTED].
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her benefits would decrease to [REDACTED] per month effective [REDACTED].

4. On or about [REDACTED], Petitioner met with the Department.
5. The Department recalculated Petitioner's eligibility for FAP benefits and on [REDACTED] sent Petitioner a Notice of Case Action, which informed Petitioner that her FAP benefits would increase to [REDACTED] effective [REDACTED].
6. On [REDACTED], Petitioner filed a Request for hearing disputing the Department's failure to increase her FAP benefits effective [REDACTED].

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.

The Department testified that it completed a collateral contact search which indicated that Petitioner's last unemployment payment would be received on [REDACTED], [REDACTED]. Additionally, because of a change in a particular deduction, Petitioner's benefits would have been further reduced in October 2016. The Department indicated that it sent Petitioner a Notice of Case Action advising that her benefits would be reduced in October 2016 as a result of the change in deduction, and because it showed her last unemployment payment was being received on [REDACTED].

Petitioner testified that she completed an online change report on [REDACTED] and advised the Department that she would receive her last unemployment payment on [REDACTED]. Although Petitioner did not print her banking information to confirm that her last payment was [REDACTED], she accessed her banking records during the hearing which confirmed that her last payment for unemployment benefits was received on [REDACTED]. The Department testified that it recalculated Petitioner's eligibility for FAP benefits on [REDACTED] and determined that Petitioner was eligible for [REDACTED] FAP benefits beginning [REDACTED]. Petitioner testified that she was not contesting the October 2016 benefits amount after it had been corrected to reflect [REDACTED] per month in FAP benefits. At issue was only the September 2016 FAP benefit amount.

In accordance with policy, the Department is required to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2016), p. 7. The policy goes on to state the effective date of the change if it results in an increase in benefits and states as follows:

Benefit Increases: Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. *Id.*

Further the policy provides an example which is applicable in this case and is as follows:

Example: Rich reports on March 23rd that he now has a shelter expense. Act on the change by April 2nd. May's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. Affect the April issuance if the action can be completed by March 31st. *Id.*

In this case, Petitioner reported the change on [REDACTED]. Under policy, Department was required to act on the change on or before [REDACTED]. As such, October 2016 benefits would have been the first month affected because the 10th day after the change was reported fell within the next benefit period. Accordingly, the Department properly increased Petitioner's FAP benefits effective [REDACTED] and not [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 acted in accordance with Department policy when it increased Petitioner's FAP benefits effective [REDACTED] instead of [REDACTED].

Accordingly, the Department's decision is **AFFIRMED**.

JM/hw



Jacquelyn A. McClinton

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]