



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 16, 2016
MAHS Docket No.: 16-015161
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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

ISSUE

Did the Department properly process the Petitioner's Food Assistance Program (FAP) group member add?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP benefits. On [REDACTED], the Petitioner provided the Department proof of the birth of her baby so that the child could be added to the FAP group. The Petitioner notified the Department of the child's birth on [REDACTED], and provided proof of the birth [REDACTED], more than 10 days after the reported change.
2. The Department completed an FAP group member add for [REDACTED].

3. The Department processed a Help Desk Ticket to add a supplement; but at the time of the hearing, no supplement for [REDACTED] or [REDACTED] had been completed or paid.
4. The Petitioner requested a timely hearing on [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.

In this case, the issue is whether the Department timely processed the Petitioner's request to have an FAP group member added resulting from the birth of her child. The Petitioner reported the birth to the Department on [REDACTED], and verified the birth on [REDACTED] by providing proof of birth to the Department. At the hearing, the Petitioner credibly testified that she had not received a supplement of her FAP benefits for either August or [REDACTED]. The Department presented evidence that the Petitioner's FAP benefits increased in [REDACTED]. Although a Help Desk Ticket was requested prior to the hearing, it did not appear at the time of the hearing that the Petitioner had received any supplements for food benefits for [REDACTED] or [REDACTED].

The issue in this case is whether the Department properly processed the change reported by Petitioner, which was an FAP group member addition. The Petitioner reported the change on [REDACTED], and fulfilled her requirement to report the change in FAP group size. Once the change was reported, the Department policy requires that change be acted upon by the Department and provides:

Act on a change reported by means other than a tape match within 10 days of becoming aware of the change.

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. BAM 220, (October 1, 2016) p. 7

If verification is required or deemed necessary, allow the household 10 days from the date the change is reported to provide the verification. The change must still affect the correct issuance month. For example, the first benefit month occurring 10 days after the date the change was reported.

Example: Rich reports a shelter change on March 21st. However, verification of his new shelter obligation is requested late on March 23rd. Rich provides the verification on April 2nd. Make the change to affect April's benefits by using a supplemental issuance.

If verification is required or deemed necessary but the client fails to return the verification within 10 days after the change was reported, but does provide the verification at a later date, act on the change within 10 days after the verification is provided.

In this case, the Petitioner credibly testified that she reported the change, adding her newborn child to her FAP group, to the Department on [REDACTED], and thereafter, provided proof of the child's birth on [REDACTED]. The Department did not present any evidence that it sent a request for verification of the child's birth to the Petitioner. The evidence presented demonstrated that the Petitioner provided on her own the verification of her child's birth within 10 days of reporting the change; thus, the Petitioner timely provided a response. Policy does require that the Petitioner be given 10 days to verify this change. Under these facts, the Department did not meet its burden of proof that it properly processed the change. If the verification request was made by the Department, by a written verification, and the Petitioner provided a timely verification, the Department was required to supplement [REDACTED] benefits. (see example above). Because it cannot be determined if the Department sought a timely verification, it has not demonstrated that it properly processed the change; and thus, it is determined based upon the proofs presented, that the Petitioner is entitled to an FAP supplement for [REDACTED], given the Department's failure to meet its burden.

Once the Department received a verified change of the Petitioner's child's birth on [REDACTED], it should have added the FAP group member for [REDACTED], as well. BAM 220. In this case, the Department did not act on the change until [REDACTED]. Based upon the evidence provided at the hearing, it is determined that the Department must add the FAP member in this case for [REDACTED], FAP allotment as well.

Based upon the evidence presented, the Department did not demonstrate that a supplement for FAP for [REDACTED] was provided, and thus, did not comply with the requirements for change processing.

DECISION AND ORDER

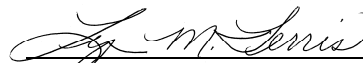
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it failed to add the Petitioner's child to the FAP group for [REDACTED] and [REDACTED].

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 process an FAP group member add for Petitioner's newborn effective [REDACTED], ongoing and shall recalculate the Petitioner's FAP benefits for [REDACTED] to include the additional FAP group member.
2. The Department shall issue an FAP supplement to the Petitioner for FAP benefits for the increase in FAP group size of one member effective [REDACTED].
3. The Department shall provide written notice of the FAP member add as of [REDACTED].

LMF/jaf



Lynn M. Ferris
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]

Petitioner

[REDACTED]

[REDACTED]