



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 11, 2016
MAHS Docket No.: 16-000880
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

PROCEDURAL HISTORY

Following the 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 3, 2016, from Lansing, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED] [REDACTED]

The following exhibits are offered and admitted into evidence:

Petitioner: none.

Department: A- December 10, 2015, DHS-1605, Notice of Case Action.
B- December 7, 2015, DHS-38, Verification of Employment.
C- October 19, 2015, DHS-38, Verification of Employment.
D- Case Comments.
E- FAP Eligibility Summary
F- FAP budget for benefit period beginning December, 2015.
G- FAP budget for benefit period beginning January 1, 2016.
H- September 1, 2015, third offense noncooperation sanction.
I- Electronic Case File.
J- Noncooperation Summary.
K- Bridges Individual Household composition.
L- Bridges Michigan FIP Time Limit counter.

Pages 12 through 19 of the hearing packet were excluded from evidence as being duplicative of the exhibits already admitted.

ISSUE

Did the Department properly process the Petitioner's change in income in her Food Assistance Program (FAP) budget?

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 in the monthly amount of \$ [REDACTED]
2. As of September 1, 2015, the Petitioner is subject to a lifetime sanction for Family Independence Program (FIP) benefits due to her noncompliance with employment related activities.
3. On September 29, 2015, the Petitioner began employment. This employment ended sometime in the first half of October, 2015.
4. Between October and December 2015 the Department received at least two, inconsistent DHS 38, Verification of Employment forms from the Petitioner's employer. Ultimately, the Petitioner's worker made a collateral contact with the Petitioner's employer in February, 2016.
5. During the hearing, the uncontested testimony was that the Petitioner's worker promised her in December, 2015 that she would make a collateral contact with the Petitioner's employer.
6. On December 10, 2015, the Petitioner was sent a DHS-1605, Notice of Case Action informing her that her monthly FAP allotment increased to \$ [REDACTED] effective January 1, 2016.
7. On January 19, 2016, the Department received the Petitioner's written a hearing request protesting that her FAP allotment had not increased prior to January 1, 2016.

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.

Additionally, Bridges Eligibility Manual (BEM) 505 (2015) p. 1, provides that a group's benefits for a month are based on a perspective income determination. The Department is to complete a budget when the Petitioner reports the change in income that will affect eligibility or benefit level. Income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred. Furthermore, Bridges Administrative Manual (BAM) 130 (2015) p. 8, provides that the Department's worker should give the Petitioner a reasonable opportunity to resolve any discrepancy between the Petitioner's statements and information obtained from another source, before determining eligibility. There is no evidence to indicate that the Petitioner was afforded this opportunity. Also, this Administrative Judge concludes that had the Petitioner's employer completed the verification forms properly, the first time, indicating that her employment ended in October, her benefits should have increased in November, 2015.

Lastly, the Petitioner's FIP benefit is continuing to be budgeted in her FAP budget even though she no longer receive this benefit. During the hearing, the Petitioner seem to be unaware that her FIP grant was continuing to be counted in her FAP budget; however, this Administrative Law Judge addresses it because it was part of the Department hearing summary and part of the Petitioner's FAP budget.

BEM 233B (2013) indicates that the FAP penalty for failure to meet employment requirements is to continue to budget the FIP grant amount in the FAP budget until the end of the FIP penalty period. For individuals serving a lifetime sanction, the FIP grant will continue to be budgeted in the FAP budget until that individual reaches the FIP lifetime time limit. The FAP penalty is separate from the FIP penalty for failing to meet employment requirements. The FAP penalty is to be distinguished from the FIP penalty for failing to meet employment requirements, which is disqualification from FIP.

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 continued to budget the FIP grant in the Petitioner's FAP budget. However, the Department did not act in accordance with Department policy when it processed the Petitioner's income decrease in her FAP budget.

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. Redetermine the Petitioner's eligibility for FAP back to November, 2015 based on the employment verification obtained by a collateral contact, and
2. issued the Petitioner any supplement she may thereafter be due, and
3. issue the Petitioner a new benefit notice informing the Petitioner of the Department's new eligibility determination and
4. the Petitioner shall retain the right to request a hearing on the new determination.



SH/nr

Susanne E. Harris
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]