



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 8, 2016
MAHS Docket No.: 16-010729
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 31, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's reported income change to affect her August 2016 Food Assistance Program (FAP) benefits?

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 was an ongoing recipient of FAP benefits.
2. On June 1, 2016, in connection with an FAP redetermination phone interview, Petitioner advised the Department that she only had a couple of weeks of continued unemployment benefits eligibility.
3. On June 24, 2016, Petitioner provided the Department with a Status of Benefit Entitlement letter from the Unemployment Insurance Agency notifying her that she had exhausted all unemployment benefits as of the week ending June 11, 2016, and she had 0 weeks of regular unemployment benefits remaining (Exhibit C).

4. The Department processed the reported change to affect Petitioner's August 2016 FAP benefits.
5. Petitioner received FAP benefits of [REDACTED] for June 2016, [REDACTED] for July 2016, and [REDACTED] for August 2016.
6. On July 28, 2016, the Department received Petitioner's request for hearing disputing the Department's actions concerning her FAP case.

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 Petitioner, who is the only member of her FAP group, was approved effective August 2016 for [REDACTED] in FAP benefits, the maximum available for a single-member FAP group. See RFT 260 (October 2015), p. 1. In her July 28, 2016, hearing request, Petitioner disputed the Department's calculation of her FAP benefits for June 2016 and July 2016 arguing that the amount of unemployment benefits used to calculate her FAP benefits should have been adjusted in her June 2016 FAP budget to reflect the decreased benefits received that month and should have been removed from her July 2016 FAP budget to reflect that she stopped receiving benefits as of June 25, 2016.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (July 2016), p. 11. If verification is required or deemed necessary, the Department must allow the household 10 days from the date the change is reported or the date verification is requested to provide verification. BEM 505, p. 12. When verifications are required, the Department must tell the client what verification is required, how to obtain it, and the due date, using a Verification Checklist (VCL). BAM 130 (July 2016). 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. BEM 505, p. 12. A supplement may be necessary in some cases. BEM 505, p. 11.

In this case, Petitioner credibly testified that she advised her worker in a June 1, 2016, phone interview that her unemployment benefits were ending that month. Petitioner

testified that her worker told her that information she had retrieved from the Department's system showed that Petitioner continued to be eligible for another five weeks of benefits and advised her to get verification of the change. There was no evidence presented by the Department that Petitioner was advised that she only had 10 days to provide the requested verification. Petitioner did provide verification to the Department on June 24, 2016, showing that the last week employment benefits would be paid was for June 11, 2016, and that Petitioner had exhausted all benefits and had a balance of 0.00 weeks of regular unemployment benefits (Exhibit C). The Department's consolidated inquiry showed, consistent with this verification, that Petitioner received her last unemployment benefit payment on June 25, 2016 for the period ending June 11, 2016 (Exhibit A).

Because Petitioner reported the decrease in income on June 1, 2016, the change should have been processed to affect her July 2016 benefits, which is the first allotment issued to Petitioner 10 days after she reported the change, provided verifications were timely provided. Although Petitioner did not verify the change until June 24, 2016, there was no evidence presented by the Department that it had notified Petitioner that she had to provide verification of the change within 10 days of reporting it. Under these circumstances, the Department properly did not process the reported change to affect June 2016 FAP benefits but should have processed the reported change to affect July 2016 FAP benefits, issuing a supplement as necessary.

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 processed the reported change in income to affect August 2016 FAP benefits rather than July 2016 FAP benefits.

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. Recalculate Petitioner's FAP benefits for July 2016 based on her loss of unemployment income in June 2016; and

2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not for July 2016.



ACE/jaf-tlf

Alice C. Elkin

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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via email

[REDACTED]
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