



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: November 23, 2016
MAHS Docket No.: 16-014727
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on November 16, 2016, from Detroit, Michigan. Petitioner appeared and was represented by [REDACTED] of [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager.

ISSUES

The first issue is whether MDHHS properly processed housing costs in determining Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's FAP eligibility.

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 FAP benefit recipient.
2. In May 2016, Petitioner submitted to MDHHS verification of [REDACTED]/month in housing costs.
3. On September 2, 2016, MDHHS determined Petitioner's FAP eligibility, effective October 2016, in part, based on \$0 housing costs.

4. On September 2, 2016, MDHHS mailed Petitioner a New Hire Client Notice to be due by September 12, 2016.
5. On September 22, 2016, MDHHS initiated a termination of Petitioner's FAP eligibility, effective November 2016, due to Petitioner's failure to return the New Hire Client Notice.
6. On September 26, 2016, Petitioner submitted, to MDHHS, a completed New Hire Client Notice.
7. On October 6, 2016, Petitioner requested a hearing to dispute FAP eligibility from October 2016 and November 2016.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request stated she disputed a reduction in FAP eligibility. Petitioner testified the decreased FAP benefit was [REDACTED], though she was not certain when the decreased benefit amount was first issued. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-5) dated September 2, 2016. The notice informed Petitioner of a FAP benefit of [REDACTED] beginning October 2016. After seeing the notice, Petitioner agreed her dispute concerned FAP eligibility for October 2016.

The presented Notice of Case Action included a budget summary listing all budget factors (see Exhibit 1, p. 4). The only disputed budget factor concerned housing costs, which were listed as \$0.

[For FAP benefits, MDHHS is 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. [For 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. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*

It was not disputed MDHHS received a lease from Petitioner in May 2016. It was not disputed that the submitted lease verified Petitioner was responsible for a monthly rent obligation of [REDACTED]. MDHHS testimony conceded Petitioner's housing costs were not

factored until December 2016. MDHHS provided no explanation for the delay in factoring Petitioner's housing costs. It is found MDHHS should have factored Petitioner's verified [REDACTED]/month housing costs in the FAP eligibility determination for October 2016.

Petitioner also expressed an intent to dispute a termination of FAP eligibility beginning November 2016. It is debatable whether Petitioner's hearing request indicated such an intent as only a reduction, not a closure, of FAP benefits was stated. Technically, a closure is a reduction of FAP benefits. Petitioner's hearing request will be interpreted to include a dispute concerning a closure of FAP benefits.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 6-10) dated September 22, 2012. The notice informed Petitioner of a FAP closure to be effective November 2016. The stated reason was a failure by Petitioner to verify information. MDHHS testimony clarified Petitioner failed to submit recently obtained employment documentation.

The Michigan Department of Health and Human Services (MDHHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (July 2016), p. 1). The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active MDHHS clients. *Id.*

[MDHHS is to] contact the client immediately if the employment has not been previously reported. *Id.* [MDHHS is to] request verification by generating a DHS-4635, New Hire Notice, from Bridges. *Id.* If verifications are not returned by the tenth day, case action will need to be initiated to close the case in Bridges. *Id.*, p. 2.

MDHHS presented a New Hire Client Notice (Exhibit 1, pp. 17-18) dated September 2, 2016. The stated due date was September 12, 2016. MDHHS testified that a search of Petitioner's electronic case file revealed Petitioner did not return the New Hire Client Notice before the prehearing conference in October 2016. Petitioner responded that the forms were returned in September 2016.

Petitioner's husband testified he personally submitted the New Hire Client Notice to MDHHS. He testified he signed the submission log when he submitted the document. During the hearing, it was discovered that Petitioner's husband signed the submission log on September 26, 2016. Petitioner's husband wrote the submission as for "work forms 2." Petitioner's husband testified he wrote "2" to reflect the number of pages submitted.

Petitioner's husband's signature on a submission log does not definitively verify that he submitted the New Hire Client Notice, however, it is the best evidence available. It is found Petitioner submitted a New Hire Client Notice to MDHHS on September 26, 2016.

Petitioner submitted the New Hire Client Notice after the document's stated due date. Petitioner also did not submit the document before MDHHS initiated a termination of Petitioner's FAP eligibility. MDHHS' statements during the hearing implied Petitioner's tardy submission could justify FAP benefit closure.

There are two types of written notice: adequate and timely. BAM 220 (July 2016), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. *Id.*, p. 4.

It was not disputed Petitioner was entitled to timely notice for the FAP benefit closure. When MDHHS mailed Petitioner the FAP benefit closure notice on September 22, 2016, Petitioner had at least 11 days to respond; Petitioner responded by having her husband submit the New Hire Client Notice on September 26, 2016. Upon receipt of the form, MDHHS should have processed the form's information and ceased the pending closure. The failure by MDHHS to do so is reversible error.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly reduced and terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner FAP eligibility for October 2016, subject to the finding Petitioner verified housing costs of [REDACTED] in May 2016; and
- (2) Reinstate Petitioner's FAP eligibility, effective November 2016, subject to the finding Petitioner returned a New Hire Client Notice to MDHHS on September 26, 2016.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]

Counsel for Petitioner

[REDACTED]