



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: December 9, 2016
MAHS Docket No.: 16-016760

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 December 8, 2016, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED] and Assistance Payment Supervisor [REDACTED]. Both [REDACTED] and [REDACTED] testified on behalf of the Department. The Department submitted [REDACTED] exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's 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. On August 10, 2016, Petitioner submitted a FAP Redetermination. [Dept. Exh. 30-35].
2. On August 29, 2016, the Department issued a Verification Checklist requesting verification of her savings account, checking account and rent, due by September 8, 2016. [Dept. Exh. 5-6].

3. On September 19, 2016, the Department received the Shelter Verification from Petitioner's landlord. According to the verification, "heating/cooling (including room air conditioner)" were included in the rent. [Dept. Exh. 8-9].
4. On September 16, 2016, the Department issued a Notice of Case Action informing Petitioner that her FAP benefits were being reduced to [REDACTED] a month from September 1, 2016 through September 30, 2016 and to [REDACTED] a month from October 1, 2016 through August 31, 2018. [Dept. Exh. 26-27].
5. On September 20, 2016, the Department issued a Notice of Case Action to Petitioner indicating that her FAP benefits would be [REDACTED] a month from October 1, 2016 through August 31, 2016. A Comment from the specialist on the Notice reminded Petitioner to submit medical expenses, if she had any, and that the expenses could help boost her FAP benefits. [Dept. Exh. 28-29].
6. The FAP benefits were reduced due to a change with how the Heat/Utility Standard was being budgeted. According to the landlord, the heat and air conditioning were included in the rent, so Petitioner no longer received the Heat/Utility Standard.
7. On November 3, 2016, Petitioner submitted a Request for Hearing, indicating that her "medical expenses are not being considered, including service animal, prescription and supplements and some medical bills which still need to be submitted." [Dept. Exh. 2-3].

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.

Department policy states that Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105, p 9 (4/1/2016). This includes completion of the necessary forms. *Id.* Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. *Id.* The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*

The local office must assist Clients who ask for help in completing forms or gathering verifications. BAM 105, p 15 (4/1/2016). Particular sensitivity must be shown to Clients who are illiterate, disabled or not fluent in English. *Id.*

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p 1 (1/1/2016). The Department must tell the Client what verification is required, how to obtain it, and the due date. BAM 130, p 3. Clients must take actions within their ability to obtain verifications. BAM 105, p 13 (4/1/2016). The Client must obtain the required verifications, but the department must assist if Clients need and request help. BAM 130, p 3. If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, the Department must offer to assist the individual in the gathering of such information. BAM 130, p 1.

The Client is allowed 10 calendar days to provide the verifications requested by the Department. BAM 130, p 6. If the Client cannot provide the verification despite a reasonable effort, the Department extends the time limit at least once. *Id.* The Department sends a negative action notice to the Client when the Client indicates refusal to provide a verification, or the time period given has elapsed and the Client has not made a reasonable effort to provide it. BAM 130, p 7.

The Department's Bridges computer system generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210, p 6 (1/1/2016). Bridges sends a Continuing Your Food Assistance Benefits (DHS-2063B), to FAP clients for whom FIP, SDA, or Medicaid are not active. *Id.* The packet is sent to the mailing address in Bridges. *Id.* The packet is sent to the physical address when there is no mailing address. *Id.* The packet includes the following as determined by the type of assistance to be redetermined:

- Redetermination/review form indicated above.
- Notice of review as determined by policy.
- Interview date.
- Interview type.
- Place and time.
- Required verifications.
- Due date.
- Return envelope. BAM 210, p 7.

Interview requirements are determined by the type of assistance that is being redetermined. BAM 210, p 3. For the FAP and MA programs, in-person interviews are not required as a condition of eligibility. *Id.*

In this case, Petitioner is requesting a hearing for an explanation as to why her FAP benefits were decreased so drastically. The Department explained that since her landlord indicated that the heat and air conditioning were included in her rent, she was no longer eligible for the Heat/Utility standard, which was the reason her FAP benefits

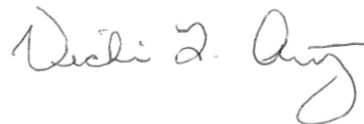
decreased. Petitioner stated that she did pay for the extra air conditioning. However, proof that Petitioner paid for the extra air conditioning was not submitted until November, 2016, which was past the due date of September 8, 2016.

Petitioner also indicated in her hearing request that her "medical expenses are not being considered, including service animal, prescription and supplements and some medical bills which still need to be submitted." Here, Petitioner believed that her case worker was responsible for asking her for her medical receipts. As indicated on the September 20, 2016, the worker did in fact remind Petitioner to submit any medical expenses because they could potentially increase her FAP benefits. Further, Petitioner brought proof of her service animal at the hearing in the above captioned matter. Therefore, those receipts had not been processed at the time of the hearing, and if they effected a change in FAP benefits, Petitioner would not see the change until January, 2017, per policy. Moreover, Petitioner admitted in her November 3, 2016 hearing request that she had not submitted the medical bills yet, which was why the Department had yet to consider them.

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 decreased Petitioner's FAP benefits.

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



Vicki Armstrong
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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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