



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: January 6, 2017
MAHS Docket No.: 16-017937
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], Hearing Facilitator.

ISSUE

Did the Department properly process the Petitioner's reported change in income?

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 Food Assistance Program (FAP) benefits.
2. The Petitioner reported a change in writing to the Department on [REDACTED] that her boyfriend who was part of her FAP group, was laid off and provided a pay stub and a note that the pay stub was his last check. Exhibit D.
3. The Department did not act or respond to the [REDACTED], reported change by Petitioner.

4. The Petitioner provided the Department a letter from her boyfriend's employer based upon updated information on [REDACTED], which advised the Department that his work hours had been reduced to 20 hours per month. Exhibit A.
5. The Department issued a Verification Checklist (VCL) on [REDACTED] requesting wage information with a due date of [REDACTED]. Exhibit B.
6. The Department issued a Notice of Case Action on [REDACTED], increasing the Petitioner's FAP benefits, effective [REDACTED] to \$ [REDACTED] per month. Exhibit C.
7. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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 Department received information from the Petitioner reporting a change in household income on [REDACTED]. The information notified the Department that the Petitioner's boyfriend, an FAP group member, had been laid off and a pay stub provided. Exhibit D. The Department took no action to verify the change or otherwise act on the change until it sent a VCL to the Petitioner on [REDACTED]. Exhibit B. Thereafter, even before receiving the VCL, the Petitioner updated her information regarding the change and advised the Department by letter from the employer that her boyfriend's hours were reduced to 20 hours a month as of [REDACTED]. Exhibit A. The employer letter contained the employer's address and phone contact information. The Department processed a change in income as of [REDACTED], and increased the Petitioner's FAP benefits effective [REDACTED]. Exhibit C. The Petitioner contends that the increase in FAP benefits should have been effective for [REDACTED].

The evidence and testimony of the Petitioner, which is deemed credible, requires a determination that the Department did not timely process the FAP benefit change in accordance with Department policy. Upon becoming aware of the reported change

received on [REDACTED], the Department was required either to process a change, or seek verification of the change, if necessary; it did neither in a timely manner.

Department policy found in BEM 220 sets forth the requirements to process an FAP benefit increase, it 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.

In this case, the Department was required to increase the FAP benefits effective no later than 10 days after the date the change was reported for the first allotment after [REDACTED], provided any necessary verification was returned by the due date. The Department should have, if it deemed verification was required, sent the verification immediately and given the Petitioner 10 days to respond. The Department's verification should have been sent out well before [REDACTED], the date it sent the verification. The verification was requested almost a month after the reported change. Based upon Department policy and the Department's failure to timely verify, it is determined it should have acted to increase benefits, effective [REDACTED]. Department policy provides:

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. BAM 220 (10/1/16), p. 7, See also BEM 505 (July 1, 2016), pp. 11-12.

The first allotment, 10 days after the date the change was reported, is [REDACTED]. Based upon the facts and testimony presented, it is determined that the Department was required to process the FAP benefit increase, effective [REDACTED].

DECISION AND ORDER

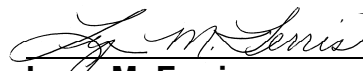
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it improperly process the reported change resulting in a FAP benefit increase.

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 issue an FAP supplement to the Petitioner for [REDACTED] [REDACTED] for FAP benefits in the amount issued for [REDACTED], based upon the FAP group income decrease. See Exhibit C.

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]

Via email

[REDACTED]