



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 3, 2017
MAHS Docket No.: 17-004427
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 April 27, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator; and [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly process Petitioner's reported change in group composition and shelter expenses?

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) allotment to [REDACTED] for a group size of two effective February 1, 2017?

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 is an ongoing recipient of FAP benefits.
2. In January 2017, Petitioner reported the following to the Department: (i) she wanted to remove her daughter and two grandchildren from her case; (ii) she wanted to add her son to her case; and (iii) she reported a shelter expense. [Exhibit A, p. 1.]

3. On January 11, 2017, the Department sent Petitioner a Change Report (DHS-2240) to add her son to her case and requested a copy of the lease. [Exhibit A, pp. 1 and 5-6.]
4. On January 13, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to █████ for a group size of two effective February 1, 2017. [Exhibit A, pp. 7-8.]
5. On February 23, 2017, the caseworker spoke to the Petitioner informing her that she has not received the Change Report form. [Exhibit A, p. 1.]
6. On February 23, 2017, the Department sent Petitioner a Shelter Verification (DHS-3688), which was due back by March 6, 2017. [Exhibit A, pp. 9-10.]
7. On March 10, 2017, the Department received Petitioner's Shelter Verification and Change Report in which she reported her group size is three (added her son to the case). [Exhibit A, pp. 11-15.]
8. On March 22, 2017, the caseworker added Petitioner's son to her case and added the shelter expenses, which resulted in an increase in benefits. [Exhibit A, p. 1.]
9. On March 22, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits increased to █████ for a group size of three effective April 1, 2017. [Exhibit A, pp. 16-17.]
10. On March 27, 2017, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 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.

Preliminary matter

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) the Department's failure to properly process her reported changes in group composition and shelter expenses; and (ii) she is disputing the decrease in her FAP benefits effective February 1, 2017. The undersigned Administrative Law Judge (ALJ) will address each issue separately below:

Reported changes

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2016), p. 11. Other changes must be reported within 10 days after the client is aware of them. These include, but are not limited to, changes in persons in the home and address and shelter cost changes that result from the move. BAM 15, p. 12. The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2017), p. 7. 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. BAM 220, p. 7.

In this case, Petitioner reported in January 2017 the following to the Department: (i) she wanted to remove her daughter and two grandchildren from her case; (ii) she wanted to add her son to her case; and (iii) she reported a shelter expense. [Exhibit A, p. 1.] On January 11, 2017, the Department sent Petitioner a Change Report (DHS-2240) to add her son to her case and requested a copy of the lease. [Exhibit A, pp. 1 and 5-6.]

On an unspecified date, the Department appeared to process the removal the daughter and grandchildren. On February 23, 2017, the caseworker spoke to the Petitioner informing her that she has yet to receive the Change Report form. [Exhibit A, p. 1.] Petitioner informed the caseworker that she had been sick and she will return the paperwork. [Exhibit A, p. 1.]

On March 10, 2017, the Department received Petitioner's Shelter Verification and Change Report in which she reported her group size is three (added her son to the case). [Exhibit A, pp. 11-15.] On March 22, 2017, the caseworker added Petitioner's son to her case and added the shelter expenses, which resulted in an increase in benefits. [Exhibit A, p. 1.] On March 22, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits increased to [REDACTED] for a group size of three effective April 1, 2017. [Exhibit A, pp. 16-17.]

At the hearing, Petitioner argued that the Department did not process her reported changes properly. Petitioner acknowledged that she received the Change Report and she said the caseworker probably asked her for a copy of the lease. Petitioner, though, testified that she had been attempting to call her caseworker in February and March of 2017, but received no contact back. In February 2017, she testified that she submitted the Shelter Verification form to the Department. But, the Department presented an

Electronic Case File (ECF) showing no receipt of a Shelter Verification in February 2017. [Exhibit A, p. 11.] She also indicated that was sick during the time the verifications were requested. She testified that her group composition should be three, not two. [Exhibit A, pp. 7-8.]

The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (January 2017), p. 7. The Department tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2017), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

Exception: for FAP only, if there is a system-generated due date on the verification form such as a DHS-3688, Shelter Verification, a verification checklist is not required to be sent with the verification form. BAM 130, p. 3.

Based on the foregoing information and evidence, the Department did not properly process Petitioner's reported change in group composition and shelter expenses. In this case, once Petitioner reported to the Department that she wanted to add her son to her case and her new shelter expenses, policy states that the Department should have sent her a VCL or a system-generated due date on the verification form (FAP only exception) (i.e., a DHS-3688, Shelter Verification with a due date). See BAM 130, p. 3. Instead, the Department sent Petitioner a Change Report without any due date. [Exhibit A, pp. 5-6.] The undersigned finds that the Department did not properly request verification of Petitioner's reported changes in group composition and shelter expenses in accordance with Department policy. See BAM 130, pp. 3 and 7. As such, the Department is ordered to reprocess Petitioner's reported changes in group composition and shelter expenses in January 2017, in accordance with Department policy.

FAP decrease

In this case, Petitioner also disputed the decrease in her FAP benefits in the amount of [REDACTED] effective February 1, 2017. As such, the undersigned reviewed the FAP budget for February 2017 located in the Notice of Case Action dated January 13, 2017. [Exhibit A, pp. 7-8.]

First, the budget indicated that Petitioner's FAP group size is two. [Exhibit A, pp. 7-8.] However, as stated above, Petitioner argued that her group size should be three because she reported to the Department in January 2017 that her son is in the household. The undersigned already addressed Petitioner's group composition issue in the analysis above. The Department is already ordered to reprocess her reported changes in group composition, which will determine if the FAP group size should be increased to three effective February 1, 2017. See BEM 212 (January 2017), p. 9 (member adds/deletes policy).

Second, Petitioner is a senior/disabled/disabled veteran (SDV) member.

Third, the Department calculated Petitioner's gross unearned income to be [REDACTED], which comprised of her child support income, Supplemental Security Income (SSI), and [REDACTED] monthly average in State SSI Payments (SSP), which she did not dispute.

Then, once the Department adds together the total income Petitioner receives, the Department will minus any deductions that she might qualify for. [Exhibit A, p. 8.] The first deduction the Department properly applied was the [REDACTED] standard deduction applicable to Petitioner's group size of one to three. [Exhibit A, p. 8 and RFT 255 (October 2016), p. 1.] The Department also did not provide Petitioner with any medical expenses, dependent care, and child support payments, which she did not dispute. [Exhibit A, p. 8.]

Finally, the Department provides Petitioner with an excess shelter deduction, which is comprised of her housing costs and utility expenses. The budget showed that the Department did not budget any shelter expenses, which she disputed. [Exhibit A, p. 8.] Again, the undersigned already addressed Petitioner's shelter expense issue in the analysis above. The Department is already ordered to reprocess her reported changes in shelter expenses, which will determine if the Department should budget any housing costs for Petitioner effective February 1, 2017. See BEM 554 (January 2017), pp. 12-15 (verification of shelter expenses).

Additionally, the Department provided Petitioner with the [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if Petitioner's monthly utility expenses exceed the [REDACTED] amount. [Exhibit A, p. 8; BEM 554, pp. 14-16; and RFT 255, p. 1.]

In summary, because the Department did not properly process Petitioner's reported changes in group composition and shelter expenses, this results in the Department recalculating her FAP allotment effective February 1, 2017, in order to determine if the Department has to increase the group size and budget any housing expenses for her.

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 (i) the Department did not properly process Petitioner's reported changes in group composition and shelter expenses for January 2017; and (ii) the Department did not act in accordance with Department policy when it improperly calculated Petitioner's FAP allotment effective February 1, 2017.


Accordingly, the Department's FAP 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. Reprocess Petitioner's reported changes in January 2017 for group composition and shelter expenses in accordance with Department policy;
2. Recalculate the FAP budget for February 1, 2017, ongoing;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from February 1, 2017, ongoing; and
4. Notify of Petitioner its decision.

EF/tm



Eric J. Feldman
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]
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CC: [REDACTED]
[REDACTED]
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