



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: July 13, 2017
MAHS Docket No.: [REDACTED] 17-007213
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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; 42 CFR 438.400 to 438.424; 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] [REDACTED], from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner’s eligibility for FAP benefits effective [REDACTED]

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 [REDACTED], Petitioner reported to the Department that she had become employed.
2. On [REDACTED], Petitioner reported to the Department that her employment ended.
3. On [REDACTED] [REDACTED] [REDACTED] the Department received verification that Petitioner’s employment ended on [REDACTED].

4. The Department was unaware that it received the verification of loss of employment and on [REDACTED], it sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits would close effective [REDACTED].
5. Petitioner received [REDACTED] in FAP benefits in [REDACTED].
6. On [REDACTED] [REDACTED] [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.
7. The Department subsequently discovered that it timely received the verification of loss of employment and reinstated Petitioner FAP benefits.
8. Petitioner received [REDACTED] in FAP benefits in [REDACTED].

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

FIP

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department sent Petitioner a Notice of Case Action advising Petitioner of its decision to close Petitioner's FIP benefits effective [REDACTED]. The Department's Notice of Case Action to Petitioner was dated [REDACTED]. However, Petitioner did not file a request for hearing to contest the Department's action until [REDACTED].

Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

FAP

Bridges evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates:

- Circumstance start/change date.
- Reported on.
- Verification received on.
- Date client became aware. BAM 220 (April 2017), p. 8.

Additionally, under policy, the Department is required to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. Further, 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, p. 7.

In this case, Petitioner reported the loss of employment on [REDACTED] and the Department received timely verification of the change on [REDACTED]. Ten days from [REDACTED] would have been [REDACTED]. Accordingly, the first allotment issued 10 days after the date the change was verified would have been [REDACTED]. The Department acknowledged that it failed to act on the change within 10 days. As such, Petitioner should have received a supplement for [REDACTED] FAP benefits.

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 failed to process Petitioner change in circumstance effective [REDACTED].

DECISION AND ORDER

Petitioner's request for hearing relating to FIP benefits is **DISMISSED**.

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. Determine Petitioner's eligibility for FAP benefits for [REDACTED] based upon change reported on [REDACTED];
2. Issue any supplement Petitioner was entitled to receive for [REDACTED] but did not; and
3. Notify Petitioner in writing of its decision.

JM/tlf



Jacquelyn A. McClinton
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 – Via First-Class Mail:

[REDACTED]