



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 20, 2017

MAHS Docket No.: [REDACTED] 17-007670

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; 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], 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 close the Petitioner's Food Assistance (FAP) benefit case?

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], the Department issued a Notice of Case Action which closed Petitioner's FAP case due to failure to verify information effective [REDACTED].
2. On [REDACTED], as a result of the Petitioner applying for Medical Assistance (MA) benefits, a verification checklist was sent to Petitioner requesting verification of income with a due date of [REDACTED]. The Petitioner returned the pay stubs on [REDACTED].
3. The Petitioner was sent a verification of employment dated [REDACTED] which was received by the Department on [REDACTED] which only stated that she was a caregiver and was not completed by any employer. Exhibit B. At the time the

verification was sought the Petitioner was in the process of completing a redetermination and indicated that her employer was [REDACTED]

4. The Petitioner never advised the Department that her employment at [REDACTED] [REDACTED] had ended. The Petitioner has not provided proof to the Department that the employment ended and the Department's Bridges system has not been updated since [REDACTED] regarding the income from this employer.
5. The Petitioner's FAP budget was reviewed at the hearing. The Petitioner's FAP group has one member and she has rent of [REDACTED] and was given the maximum utility allowance for heat [REDACTED] which was determined to be correct and verified by Petitioner. Exhibit C
6. The Department determined the Petitioner's gross income from employment was [REDACTED] when calculating FAP benefits. Exhibit C.
7. The Petitioner is currently employed by [REDACTED] as a caregiver.
8. The Petitioner provided pay stubs for [REDACTED] for pay date [REDACTED] in the amount of [REDACTED], and for pay date of [REDACTED] the amount of [REDACTED]. The gross income for this employer before the earned income deduction was [REDACTED]
9. The Petitioner was previously employed by [REDACTED] and the employment ended sometime in [REDACTED]
10. The Department issued a Notice of Case Action dated [REDACTED] closing the Petitioner's FAP case effective [REDACTED], because she failed to verify information requested by the Department. Exhibit D
11. The Petitioner requested a timely hearing on [REDACTED] protesting the Department's action closing her FAP case.

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 Petitioner sought a hearing because the income used to calculate her FAP benefits included income from an employer she no longer worked for. The Petitioner identified the employer as [REDACTED]. The Department records indicated the employer was [REDACTED]. The Petitioner never advised the Department that the employment ended and did not provide any verification from this employer verifying termination of employment. The Department apparently continued to include earned income from this employer identified as [REDACTED] or [REDACTED]e when calculating the Petitioner's FAP benefits as well as the current earned income received from her current employer [REDACTED]. The Department was unable to identify what income was included for [REDACTED]. In addition, the Department closed the Petitioner's FAP benefits effective [REDACTED] when she failed to provide the Department pay stubs in connection with an application she filed for Medical Assistance.

The Department presented evidence that the Petitioner's current income from [REDACTED] was [REDACTED]. Exhibits C and D. A review of the pay stubs from the current employer [REDACTED] was conducted at the hearing and it was determined that the income from the employer was correct as calculated by the Department. The Petitioner provided pay stubs for [REDACTED] for pay date [REDACTED] in the amount of [REDACTED], and for pay date of [REDACTED] in the amount of [REDACTED]. The gross income for this employer before the earned income deduction was [REDACTED].

To compute Petitioner's gross income, the 2 pay stubs are added together and divided by 2 to get the average biweekly pay. [REDACTED]). This average pay is then multiplied by 2.15 to get gross monthly pay which is [REDACTED]. The 2.15 factor is applied as a conversion to take into account fluctuations due to the number of scheduled pays in a month. See BEM 505 ([REDACTED]), p. 8 and RFT 250. Because the Department never received proof of employment ending, it correctly continued to include income from Petitioner's former employer which was correct because the Department cannot stop income without Petitioner providing verification of employment ending. As explained to the Petitioner at the hearing, the Petitioner must report ending of employment and verify same.

In addition, the Department testified that it ultimately closed the Petitioner's FAP benefits due to the Petitioner's failure to provide pay stubs in connection with a verification request for her medical assistance application. The pay stubs for the verification for MA were provided after the verification due date for the MA verifications and the Department apparently denied the MA application. The Department did not provide the Verification Checklist that it sent to the Petitioner for the MA application, but testified that it requested pay stubs. There was no evidence regarding issuance of a Verification Checklist requiring the Petitioner to provide income with respect to the Petitioner's FAP benefits. In order to close the Petitioner's FAP case, the Department must demonstrate that verifications were requested for the Petitioner's FAP case, and

provide evidence of a Verification Checklist identifying the information it requested. The Notice of Case Action closing the FAP benefits was sent [REDACTED] effective [REDACTED] 2017 and indicated that FAP was closing due to failure to provide requested information; the Notice does not indicate what information was not provided by Petitioner. No such evidence of what information was not verified was presented, therefore it cannot be determined whether the Department properly closed the FAP case for failure to verify income based upon the evidence presented. In addition, timely notice was required because the Notice of Case Action terminated FAP benefits. Regarding failure to provide timely verification, Department policy provides:

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a case action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed.

Only **adequate** notice is required for an application denial.

Timely notice is required to reduce or terminate benefits.

BAM 130, (April 2017), p. 9

In addition, the Department presented evidence that Petitioner had just provided the Department pay stubs verifying her income for pay dates [REDACTED], which it used to calculate her income for FAP benefits. Exhibit C. The Department may verify income at any time regarding the following:

Verify all non-excluded income:

- At application, including a program add, prior to authorizing benefits.
- At member add, only the income of the member being added.

Note: See BAM 220, CDC MEMBER ADD for CDC member add requirements.

- At redetermination.
- When program policy requires a change be budgeted. BEM 500, p. 13-14.

There was no evidence that there was a member add, a redetermination or any program policy which required a change be budgeted such that income required verification for an ongoing FAP case. Therefore, based upon the Department's failure to provide evidence of a Verification Checklist request for FAP, or what information was requested by the Department that was not provided by Petitioner, and the evidence that the Petitioner provided recent pay stubs for her earnings, the Department did not meet its burden to demonstrate that the closure of Petitioner's FAP case was correct.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is

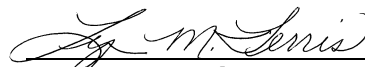
AFFIRMED IN PART with respect to the calculation of Petitioner's FAP income based upon the pay stubs provided and Petitioner's failure to provide proof of employment ending; and,

REVERSED IN PART with respect to closure of Petitioner's FAP case for failure to verify information.

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. Shall reinstate the Petitioner's FAP case as of the closure date.
2. The Department shall issue a FAP supplement to the Petitioner, if otherwise eligible in accordance with Department policy.

LF/tm



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]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]