



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: July 25, 2017
MAHS Docket No.: 17-008222
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 hearing¹ was held on July 19, 2017, from Lansing, Michigan. Petitioner appeared at the Department of Health and Human Services ([REDACTED]) local office and represented herself. [REDACTED] Hearing Facilitator (HF) from [REDACTED] ([REDACTED]) local office appeared on behalf of the Department of Health and Human Services (Department).

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. Petitioner was actively receiving FAP with a monthly allotment of \$ [REDACTED] effective April 5, 2017, through April 30, 2017. [Department's Exhibit 1, pp. 3-6].

¹ The Amended Notice of Hearing indicated that [REDACTED] ([REDACTED]) office will participate by telephone at the hearing. However, when the Administrative Law Judge called [REDACTED] ([REDACTED]) for the hearing, the Department caseworker assigned to the case did not answer the telephone.

2. Petitioner is not a senior/disabled or a veteran (S/D/V) and had a group size of 2. [Dept. Exh. 1, p. 7].
3. Petitioner receives \$ [REDACTED] per month in unearned income for SSI. [Petitioner's Hearing Testimony].
4. On April 20, 2017, the Department sent Petitioner a Notice of Case Action which indicated that Petitioner's monthly FAP for the period of April 5, 2017, through April 30, 2017, is \$ [REDACTED] and that her monthly FAP for May 1, 2017, through March 31, 2018, would be \$ [REDACTED] [Dept. Exh. 1, pp. 3-6].
5. On or after May 1, 2017, Petitioner reported to [REDACTED] [REDACTED] Petitioner's [REDACTED] [REDACTED] caseworker, that she had a change in her rental expenses. Petitioner reported that she paid \$ [REDACTED] per month for rent and paid \$ [REDACTED] for utilities (including light and gas). Petitioner also provided [REDACTED] [REDACTED] with a copy of her lease and utility expenses. [Pet. Hrg. Test.].
6. The Department reprocessed Petitioner's FAP eligibility and discovered an error. [REDACTED] [REDACTED] recalculated Petitioner's FAP allotment for the months of June and July 2017 and certified a \$ [REDACTED] supplement for both months. [REDACTED] Hrg. Test.].
7. On or about June 15, 2017, Petitioner requested a hearing to dispute the FAP amount. [Req. for Hrg.].
8. On or about July 3, 2017, Petitioner received a supplement in the amount of \$ [REDACTED] on her Electronic Benefit Transfer (EBT) card for June 2017 and \$ [REDACTED] for the month of July 2017. [REDACTED] Hrg. Test.].

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 the instant matter, Petitioner requested a hearing because she believes that she is entitled to a supplement for the month of May 2017 because she reported her new rental expenses to her caseworker in early May. The Department contends that

Petitioner's FAP was properly calculated and that she was entitled to a supplement for June and July, but not for May.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department representative who attended the hearing, [REDACTED] provided credible testimony regarding Petitioner's case based on the Department's "Bridges" computer system. According to Bridges, as well as [REDACTED] credible testimony, Petitioner received a FAP supplement on her EBT card for the months of June and July 2017. Petitioner does not dispute this fact. Petitioner; however, believes that she is entitled to a FAP supplement for May as well because she reported her rental expense changes to her O [REDACTED] caseworker in early May.

For all programs, Bridges will evaluate each change reported and entered in the system to determine if it affects eligibility. Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means. BAM 220 (4-1-2017), p. 1.

A **positive action** is a Michigan Department of Health & Human Services (MDHHS) action to approve an application or increase a benefit. A **negative action** is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement. BAM 220, p. 1. [Emphasis in original].

For all programs, 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.

See BAM 220, p. 8.

For non-income changes, the Department must complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. The benefit month **cannot** be earlier than the month of the change. BAM 220, p. 10.

Example: A \$30 shelter increase reported on May 15th would increase the household's June allotment. If the same increase were reported on May 28, the household's allotment would have to be increased **by** July. (The 10th day following May 28 would be June 7.) However, the first month we **can** affect is June, provided the action on the shelter change is completed by May 31st. BAM 220, p. 10.

When processing changes for all programs, the Department must enter all changes in Bridges by changing the affected data elements. Certify the eligibility results in Bridges for all appropriate benefits and benefit periods. BAM 220, p. 10.

Supplemental Food Assistance benefit issuances (supplements) **must** be issued:

- When the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or
- For periods when the group was eligible but received no regular benefits.
BAM 406 (7-1-2013), p. 1.

Supplements are issued through Bridges. The supplemental benefit amount is deposited into the client's EBT food benefit account. The benefit is available the next day. BAM 406, p. 1.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly determined Petitioner's FAP benefit allotment amounts for the months of May, June, and July 2017. The fact that Petitioner received a supplement for June and July is a positive action as defined by BAM 220, p. 1. In addition, Petitioner's reporting of her rental expense change is considered a non-income change under BAM 220, p. 10. Because Petitioner reported the change of rental expense in early May 2017, the Department properly processed the change affecting the next month (June). The instant scenario is similar to the example set forth in BAM 220 on page 10. After the change is reported in May, the allotment would increase the following month, which is June. Therefore, the Department correctly determined that Petitioner's FAP supplement begins on June 1st, and Petitioner is not entitled to a FAP supplement in May.

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 determined Petitioner's FAP benefits for May, June, and July 2017.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/md



C. Adam Purnell
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]

DHHS

[REDACTED]

Petitioner

[REDACTED]