



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 20, 2017
MAHS Docket No.: 17-010690
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 three way telephone hearing was held on September 18, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Shakala Clemons, Family Independence Specialist/Success Coach Pathways to Potential.

ISSUE

Did the Department properly process 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 is an ongoing recipient of FAP benefits. Petitioner was previously approved for FAP benefits in the amount of \$306. (Exhibit A, p. 9)
2. Petitioner's employment ended on July 11, 2017 and she received her last paycheck on July 17, 2017. (Exhibit A, pp. 6-8)
3. On July 14, 2017 Petitioner contacted the Department to report that her employment ended. Petitioner informed the Department that she requested her employer provide verification of loss of employment such as a letter but her employer refused.

4. Petitioner requested that the Department contact her employer to obtain loss of income verification.
5. On July 26, 2017 the Department made a collateral contact with Petitioner's employer and in response on July 27, 2017, the employer faxed the Department a completed Verification of Employment to verify Petitioner's loss of income. (Exhibit A, pp. 6-8)
6. The Department processed the Verification of Employment and on August 3, 2017 sent Petitioner a Notice of Case Action advising her that effective September 1, 2017 her FAP benefits would be increased to \$649 monthly. (Exhibit A, pp. 11-14)
7. On August 8, 2017 Petitioner requested a hearing disputing the Department's actions, asserting that the Department failed to timely process her reported change and apply it to her August 2017 FAP budget.

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.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes such as starting or stopping employment must be reported within 10 days of receiving the first payment reflecting the change. BAM 105 (October 2016), p. 11. For FAP cases, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. If verification is required or deemed necessary, the Department must allow the household 10 days from the date the change is reported or the date the Department requests verification to provide the verification requested. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported. BEM 505 (April 2017), pp. 10-11.

To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. Although the client must obtain the required

verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, pp. 3-4.

In this case, Petitioner credibly testified that she contacted the Department on July 14, 2017 to report that her employment and income had ended. Petitioner stated that she had made attempts to obtain paperwork from her employer to verify her loss of employment but her employer refused. There was no evidence presented that the Department sent Petitioner a VCL or otherwise provided her with an opportunity to verify her loss of employment. It was established that the Department made a collateral contact with Petitioner's employer and obtained necessary verifications on July 27, 2017. The Department maintained that it first learned of Petitioner's loss of employment on July 26, 2017 and processed her income decrease, to increase her September 2017 FAP budget. However, in light of the above referenced policy, the examples reflected in the income change processing policy of BEM 505 and Petitioner's testimony that she timely reported her loss of income to the Department on July 14, 2017, the Department was required to process Petitioner's reported change to increase her August 2017 FAP benefits, as that is the first allotment issued 10 days after the change was reported. See BEM 505, pp. 10-12.

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 processed Petitioner's FAP benefits.

DECISION AND ORDER

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. Process Petitioner's reported income decrease using the change report date of July 14, 2017;
2. Recalculate Petitioner's FAP budget for August 1, 2017, ongoing to reflect the loss of employment income;
3. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from August 1, 2017, ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy; and

4. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-23-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

