



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 7, 2017
MAHS Docket No.: 17-012794
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 telephone hearing was held on October 31, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Kya Cooper, Eligibility Specialist and Eileen Kott, Family Independence Manager.

ISSUE

Did the Department properly process Petitioner's application for 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 previously an ongoing recipient of FAP benefits. Petitioner's FAP case closed effective August 31, 2017 due to a failure to return a redetermination.
2. On [REDACTED], 2017 Petitioner reapplied for FAP benefits and her application was processed using the FAP expedited service policy. (Exhibit A)
3. On September 7, 2017 the Department sent Petitioner a Notice of Case Action advising her that she was approved for FAP benefits in the amount of \$194 for the period of September 1, 2017 to September 30, 2017 and that effective October 1, 2017, ongoing, she was approved for \$154. (Exhibit B)

4. Petitioner's FAP benefits for the month of September 2017 were paid/made available to her on or around September 7, 2017. The Notice of Case Action advised Petitioner that for the months following, her FAP benefits would be available on the 21st day of each month. (Exhibit B)
5. Petitioner's FAP benefits were decreased effective October 1, 2017 because \$38 monthly was being withheld through administrative recoupment to repay a previously established overissuance (OI). (Exhibit B; Exhibit E; Exhibit F)
6. Petitioner timely received her FAP benefits for the month of October 2017 on or around October 21, 2017.
7. On September 22, 2017 Petitioner requested a hearing disputing the Department's actions with respect to her expedited FAP application, specifically, having to wait 45 days to receive her October 2017 FAP issuance. (See Petitioner's Request for Hearing)

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, Petitioner disputed the Department's processing of her FAP application, asserting that her FAP benefits should have been issued sooner than the date in which she received them.

The purpose of FAP expedited service is to help the neediest clients quickly. Expedited service has a shorter standard of promptness and fewer verification requirements to determine FAP eligibility than are normally required. BAM 117 (July 2014), p. 1. FAP groups entitled to expedited service must have a Bridge card and access to their benefits no later than the seventh calendar day following the date of application; see BAM 115 (July 2017), p. 17. The date a client's ongoing benefits are issued is based on the last digit of the grantee's recipient identification number. RFS 305 (June 2014), p. 3.

At the hearing, the Department testified that it processed Petitioner's FAP application using the appropriate expedited service standards of promptness and issued Petitioner's FAP benefits to her for the application month within seven days of receiving

the [REDACTED], 2017 application. The Department stated that Petitioner's ongoing benefits beginning with the October 2017 benefit month would be issued to her on the 21st of each month. A review of the Notice of Case Action shows that the last digit of Petitioner's Grantee ID number is 9. Thus, based on the last digit of her Grantee ID number, Petitioner's ongoing FAP benefits were properly made available and issued to her on October 21, 2017. RFS 305, p. 3.

Additionally, BAM 725 provides that active programs are subject to administrative recoupment (AR) for repayment of overissuances. FAP benefits are reduced for recoupment by a percentage of the monthly FAP entitlement. AR occurs only on current month issuances and automatically changes when the monthly issuance amount changes. The standard AR percentage for FAP overissuances resulting from IPV is 20% (or \$20, whichever is greater) for intentional program violation. BAM 725 (January 2017), pp. 6-8. 10

During the hearing, the Department also established through its testimony and documentary evidence that it was properly administratively recouping \$38 from Petitioner's monthly FAP allotment due to a previously established overissuance resulting from an Intentional Program Violation (IPV) (Exhibit E; Exhibit F). Petitioner confirmed that she received her FAP benefits for the months of September 2017 and October 2017 and further that she signed an IPV Repayment Agreement on October 27, 2011 agreeing to repay overissued FAP benefits (Exhibit F). Upon further review, the Department also established that Petitioner's FAP benefits were properly calculated in accordance with Department policy.

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 processed Petitioner's FAP application and timely issued her FAP benefits.

DECISION AND ORDER

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

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-76-Hearings
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

