



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 25, 2018
MAHS Docket No.: 17-014711
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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 December 13, 2017, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly deny Petitioner's application for Family Independence Program (FIP) 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 submitted an application for FAP and FIP benefits on September 12, 2017.
2. Petitioner was provided FAP benefits on an expedited basis in September 2017.
3. On September 14, 2017, the Department mailed Petitioner a Verification Checklist with a due date of September 25, 2017. The Department requested Petitioner provide proofs regarding loss of employment, earning statements and employment verification. Petitioner provided the requested proofs on October 23, 2017. [Exhibit A, pp. 47-48.]

4. On October 23, 2017, the Department sent Petitioner a Notice of Case Action (NCA) notifying her that the FIP application was denied due to the failure to provide the requested verifications timely. The NCA also notified Petitioner that the FAP benefits were closed for the same reason. [Exhibit A, pp. 49-53.]
5. On October 23, 2017, the Department received Petitioner's response to the September 2017 VCL. Petitioner provided earning statements for June-September 2017. Petitioner attempted to provide the requested earning statements on September 25, 2017; however, they were emailed to an incorrect address. [Exhibit 1.]
6. On October 26, 2017, the Department mailed Petitioner a NCA approving FAP benefits. The benefit amount was lower than the approved amount for the month of September 2017.
7. On November 3, 2017, the Department received Petitioner's request for hearing disputing the Department's actions.

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).

FIP

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.

In this case, Petitioner applied for FIP benefits in September 2017. The Department denied the application due to the failure to return requested verifications by the due date. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. 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, p. 3. For FIP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. Petitioner was sent a VCL on September 14, 2017, requesting verification of the end of employment and earning. Proofs were due by September 25, 2017.

Petitioner testified that an attempt to provide the requested verifications was made on September 25, 2017. A worker with Michigan Works was asked to email earning statements to the eligibility specialist on Petitioner's behalf. The email was sent to an incorrect email address.

For FIP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

On October 23, 2017, the Department sent Petitioner an NCA notifying of the denial of the FIP application. Subsequently, Petitioner provided the requested items on October 23, 2017. In FIP cases, an approval or denial of an application is to be made within 45 days. BAM 115 (October 2017), p. 17. The standard of promptness begins the day the application with minimum required information. BAM 115, p. 16. The standard of promptness (SOP) is the maximum time allowed to complete a required case action. Cases should be processed as quickly as possible. BAM 220, (October 2017), p. 6.

Petitioner argues that she should have been provided notice earlier that the required verifications had not been received. It was the Petitioner's obligation to ensure the requested verifications were received by the Department. She states she attempted to make contact with the case worker on many occasions. However, even when Petitioner attempted to provide the requested verifications, it was on the date they were due which did not leave her much leeway to ensure they were received. The original emailed items were sent to an incorrect email address; however, when Petitioner's husband emailed the items himself, they were received by the Department. Petitioner's husband emailed the documents on October 23, 2017. The emailed items did not contain any documentation to address the loss of employment as requested by the Department.

Because the Department did not receive the required information timely, a further eligibility determination could not be made. The Department acted in accordance with policy when it denied Petitioner's application for FIP benefits.

FAP

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 requested a hearing to dispute the decrease in FAP benefits. As discussed above, the Department was unable to continue benefits in October 2017, initially, because the requested verifications had not been received by the due date. The Department issued an NCA on October 23, 2017, closing Petitioner's FAP case which

had been opened in September on an expedited basis. Then, once the Department received the requested verifications on October 23, 2017, Petitioner's FAP application process was completed. When an application process is completed between the 31st and 60th day from the original date of application, the application is re-registered, using the date the applicant completed the process. Benefits are to be prorated from the date the application process is completed. BAM 115 (January 2018), p. 26. In this case, the Department prepared FAP budgets for October 2017, which was for a prorated amount; and the ongoing FAP budget began on November 1, 2017. [Exhibit A, pp. 60-65.] On October 26, 2017, the Department sent Petitioner a NCA notifying her that she was approved for a prorated amount of \$ [REDACTED] for October 2017 and \$ [REDACTED] beginning November 1, 2017-ongoing.

The Department presented net income budgets to establish Petitioner's benefit amount had been calculated correctly. [Exhibit A, pp. 60-65.] The budgets were reviewed in the hearing.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

The Department testified Petitioner's earned income from employment was calculated to be \$ [REDACTED] per month. The Department presented paycheck stubs to support the earned income amount. Petitioner did not dispute the calculation of her husband's earnings. Petitioner's husband was paid biweekly. When Petitioner's payment amounts are averaged and multiplied by the 2.15 multiplier, it results in a total monthly standard amount of \$ [REDACTED]. Therefore, the Department correctly calculated Petitioner's monthly income from employment.

Petitioner's household received monthly child support in the amount of \$ [REDACTED]

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV)

household member. BEM 550 (October 2015), pp. 1-2. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (August 2017), p. 1; BEM 556 (July 2013), p. 3.

The Department will reduce the gross countable earned income by 20% and is known as the earned income deduction. BEM 550 (January 2017), p. 1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$ [REDACTED] (November-ongoing). Petitioner was not provided an earned income deduction for October 2017, because income information was not provided timely. Petitioner's FAP benefit group size of three, which is comprised of herself, her husband and a child, justifies a standard deduction of \$ [REDACTED] RFT 255 (October 2017), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

In calculating the excess shelter deduction of \$ [REDACTED] (October) and \$ [REDACTED] (November-ongoing), the Department stated that it considered Petitioner's verified housing expense of \$ [REDACTED] and that she was entitled to the heat/utility standard of \$ [REDACTED] BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% of the adjusted gross income, which resulted in a \$ [REDACTED] (October) and \$ [REDACTED] (November-ongoing) deduction. The Department correctly determined Petitioner was entitled to \$ [REDACTED] (November-ongoing) excess shelter deductions. However, the \$ [REDACTED] (October) excess shelter amount maybe incorrect as the Department failed to provide the earned income deduction for October even though the Department had the information regarding the husband's earnings at the time the budget was prepared. Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550 (January 2017), p. 1. Because the October 2017 FAP budget is incorrect the remaining discussion will exclude further analysis of the October 2017 budget.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$ [REDACTED] (November 2017-ongoing). After subtracting the excess shelter deduction, Petitioner's net income was \$ [REDACTED] (November 2017-ongoing). The net income limit for a group of three is \$ [REDACTED] RFT (October 2017), p. 1. The maximum benefit amount for a group size of three is \$ [REDACTED]. To arrive at Petitioner's monthly benefit amount, 30% of the net income amount is subtracted from the maximum possible benefit amount. The Department properly calculated Petitioner's monthly benefit amount

to be \$ [REDACTED] (November 2017-ongoing). Therefore, the Department acted in accordance with policy when it determined Petitioner's monthly FAP benefits for November 2017-ongoing and failed to establish it followed policy when calculating benefits for the month of October 2017.

DECISION AND ORDER

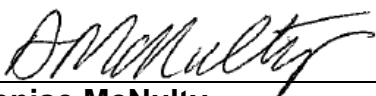
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's application for FIP benefits and when it determined Petitioner's monthly FAP benefits for November 2017-ongoing. It is further found that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's benefits for the month of October 2017.

AFFIRMED IN PART with respect to FAP benefits for the time period of November 2017-ongoing and **REVERSED IN PART** with respect to FAP benefits for the time period of October 1-31, 2017.

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. Recalculate the FAP budget for the month of October 2017, only, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from October 1, 2017, through October 31, 2017; and
3. Notify Petitioner of its decision in accordance with Department policy.

DM/



Denise McNulty
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

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