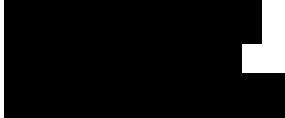




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: January 12, 2018
MAHS Docket No.: 17-015801
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Laura Gibson

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 January 8, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

1. Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits for November 2017?
2. Did the Department properly deny Petitioner's application for State Disability Assistance (SDA) 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.
2. Petitioner's FAP group consists of herself and her son.
3. On October 11, 2017, the Department sent Petitioner a Notice of Case Action indicating that her FAP case was being closed for excess income, effective November 1, 2017, ongoing.

4. On November 6, 2017, the Department sent a corrected Notice of Case Action, indicating that Petitioner's FAP case was not being closed.
5. The Department issued Petitioner FAP benefits beginning November 2, 2017, in the amount of \$ [REDACTED]
6. Petitioner applied for SDA benefits and attended an interview for SDA on November 3, 2017, at which time she was given a Medical Determination Verification Checklist, with proofs due by November 13, 2017.
7. Petitioner obtained all of the necessary verifications, except for the verification of Social Security Administration (SSA) application/appeal.
8. Petitioner returned the verifications she had obtained on November 10, 2017, to her case worker.
9. Petitioner also advised her case worker that she was not going to be able to apply for SSA benefits until after the November 13, 2017 deadline had passed, because her employer had told her not to apply for SSA until the employer had finished necessary documentation.
10. Petitioner's case worker responded, "you better hurry up and get it in."
11. After resolving the issue with her employer, Petitioner applied for SSA benefits on November 20, 2017, and submitted verification to the Department the same day.
12. On November 20, 2017, the Department received Petitioner's hearing request regarding her FAP and SDA benefits.

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).

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 disputing a decrease in her FAP benefits. The Department sent Petitioner a Notice of Case Action on October 11, 2017, advising

her that her FAP case was being closed due to excess income, effective November 1, 2017. The Department testified that on November 6, 2017, the Department sent a corrected Notice of Case Action, indicating that Petitioner's FAP case was not being closed. The Department then issued Petitioner FAP benefits beginning November 2, 2017. Petitioner was issued \$ [REDACTED] in FAP benefits for October 2017, \$ [REDACTED] for November 2017, and \$ [REDACTED] for December 2017, ongoing.

No evidence was presented as to why Petitioner's FAP benefits were decreased to \$ [REDACTED] for the month of November 2017, or why benefits were issued with a beginning date of November 2, 2017, as opposed to beginning benefits on the first of the month. Without evidence of why Petitioner's FAP benefits decreased, the undersigned is unable to make a determination as to whether the Department complied with policy. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it decreased Petitioner's FAP benefit amount for November 2017.

SDA

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

As a condition of SDA eligibility, individuals must apply for any state and/or federal benefits for which they may be eligible. BEM 270 (April 2016), p. 1. At program application or request for disability deferral, clients must apply for or appeal benefits through the Social Security Administration (SSA) if claiming disability and/or blindness. BAM 815 (January 2017), pp. 1-2.

The Disability Determination Service (DDS) develops and reviews medical evidence for disability and/or blindness and certifies the client's medical eligibility for assistance. BAM 815 (January 2017), p. 1. At application or medical review if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability. BAM 815, p. 2. The Department will deny an application for SDA or place an approved program into negative action for failure to provide required verifications. BAM 815, p. 2. One of the required verifications is a verification of SSA application/appeal. BAM 815, p. 4. The Department verifies SSA application/appeal through a State Online Query (SOLQ), Form DHS-1552, Verification of Application for SSI from SSA, or correspondence from SSA. BAM 815, p. 8.

The Department allows the client ten calendar days to provide the requested verifications. BAM 130 (April 2017), p. 7. However, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the specialist may grant an extension. BAM 130, p. 7.

In this case, Petitioner received the Medical Determination Verification Checklist on November 3, 2017, which indicated that all required documentation was due by

November 13, 2017. Petitioner obtained all of the necessary verifications, except for the verification of SSA application/appeal. Petitioner returned the verifications she had obtained on November 10, 2017, to her case worker. Petitioner also advised her case worker that she was not going to be able to apply for SSA benefits until after the November 13, 2017 deadline had passed, because of an issue with her employer. Petitioner's case worker responded, "you better hurry up and get it in." After resolving the issue with her employer, Petitioner applied for SSA benefits on November 20, 2017, and submitted verification to the Department the same day.

While Petitioner did not submit her application in a timely fashion, Petitioner advised her case worker that she was not going to be able to submit the application by the due date. However, Petitioner's case worker did not grant her an extension to allow her to obtain the necessary verification. No explanation for the failure to grant an extension was provided. Further, no Notice of Case Action was sent to Petitioner, explaining the reason for the Department's actions. As such, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not grant Petitioner an extension to comply with SDA verification requirements, and subsequently denied her application.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it decreased Petitioner's FAP budgets for November 2017, and did not grant Petitioner an extension to comply with SDA verification requirements.

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. Recalculate Petitioner's FAP budget for November 1, 2017;
2. If Petitioner is otherwise determined eligible for FAP benefits, issue a FAP supplement for FAP benefits Petitioner is entitled to receive in accordance with Department policy;
3. Reregister and reprocess Petitioner's SDA application;
4. If Petitioner is otherwise determined eligible for SDA benefits, issue a SDA supplement for SDA benefits Petitioner was entitled to receive in accordance with Department policy; and

5. Notify Petitioner of its FAP and SDA decisions in writing.



LG/kl

Laura Gibson
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



Petitioner via USPS

