



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 12, 2018
MAHS Docket No.: 17-015859
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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. The Petitioner was self-represented and appeared with her mother [REDACTED] as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine that no Food Assistance Program (FAP) supplement should have been issued for September 2017?

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 benefits on August 5, 2017.
2. On August 8, 2017, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of savings and other bank accounts as well as wages by August 18, 2017.
3. On August 22, 2017, the Department issued a Notice of Case Action indicating that Petitioner's FAP benefits were approved in a prorated amount of \$ [REDACTED] for the month of August 2017 and \$ [REDACTED] for September 2017 ongoing.

4. The VCL was returned to the Department on August 24, 2017 and included a note at the bottom indicating that Petitioner had a change in her employment and that she was now on medical leave effective August 12, 2017.
5. Petitioner was hospitalized from August 11, 2017 through August 17, 2017 and again from August 20, 2017 through September 10, 2017.
6. On October 11, 2017, the Department issued a Medical Redetermination with another VCL requesting proof of wages.
7. On November 1, 2017, the Department issued a new Notice of Case Action closing Petitioner's FAP case as of December 1, 2017 for failure to provide verification of earned income.
8. On November 21, 2017, Petitioner submitted a hearing request disputing the closure of her FAP case in December 2017 and the calculation of benefits for August through November 2017.
9. The same day, Petitioner's case was reinstated because the Department discovered Petitioner's note at the bottom of the VCL that she was on medical leave as of August 12, 2017, and a Verification of Employment form was mailed to Petitioner's employer.
10. On November 27, 2017, Petitioner's employer returned the employment verification form.
11. On November 28, 2017, Department created a Help Desk Ticket for a supplement to be issued for Petitioner's FAP case.
12. On the same day, after seeing the Help Desk Ticket, Petitioner signed a Hearing Request Withdrawal In-Person form and submitted it to the Department.
13. On December 5, 2017, the Department issued a Notice of Case Action increasing Petitioner's benefits from \$ [REDACTED] to \$ [REDACTED] for October 2017 ongoing.
14. On December 8, 2017, Petitioner filed a new hearing request disputing the Department's failure to adjust her September 2017 benefit amount on the December 5, 2017 Notice of Case Action.

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, the Petitioner is disputing the department's action in failing to supplement or reconsider her September 2017 FAP benefit amount. While Petitioner submitted a hearing request on November 21, 2017 and then subsequently withdrew her request on November 28, 2017, the Department issued a Notice of Case Act on December 5, 2017 increasing or supplementing benefits from October 2017 ongoing. The Petitioner is arguing that the Department did not go far enough in its reconsideration and should have included September 2017 on the December Notice of Case Action. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2017), p. 7. Therefore, the Petitioner's request for hearing submitted to the Department on December 8, 2017 is proper as it addresses concerns raised by the December 5, 2017 Notice of Case Action.

In support of her position, the Petitioner and her mother testified to calls made to the Petitioner's case worker regarding her hospitalization. Petitioner's mother testified that she called while Petitioner was hospitalized and left a voicemail for her case worker indicating that Petitioner was not working. She could not identify the date or time when she called. Petitioner testified that she called and left a voicemail for her case worker before her case was closed on November 1, 2017 regarding her hospitalization but again is uncertain of the date or time. The Department provided case notes showing that Petitioner's case worker notated a conversation with Petitioner on August 22, 2017 indicating that she was hospitalized. The Department also provided a VCL with a handwritten note from Petitioner at the bottom indicating "there has been a change, I'm off for medical reasons now I have not worked since 8-12-2017..." This VCL was received by the Department on August 24, 2017. Based upon the evidence presented, it appears as though the first time that the Department was alerted to Petitioner's medical leave was August 22, 2017.

Department policy provides that the Department is required to act on any change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (October 2017), p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 7. Therefore, in this case, since the medical leave was first reported on August 22, 2017, the Department had 10 days to act on the issue, or until September 1, 2017, and then was required to implement an increase in benefits for the next benefit period, or October 2017.

Based upon the date that the Department first learned of Petitioner's medical leave and the application of policy as described above, the Department's December 5, 2017

Notice of Case Action correctly began the adjusted or increased benefit period as of October 1, 2017 and not as of September 2017 as argued by Petitioner.

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 supplemented or increased Petitioner's FAP benefit as of October 1, 2017.

DECISION AND ORDER

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



AM/kl

Amanda M. T. Marler
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

