



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 26, 2018
MAHS Docket No.: 18-000676
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 February 21, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

1. Did the Department properly calculate Petitioner's Food Assistance Program (FAP) FAP benefit beginning December 2017 and ongoing?
2. Did the Department properly notify Petitioner of case actions with regard to his 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. On August 25, 2017, Petitioner submitted an online application for FAP benefits with the assistance of a Department worker.
2. On his application, Petitioner listed his housing expense as \$ [REDACTED]
3. On the same day as his application, Petitioner turned in a copy of his lease agreement to the Department indicating that his rental expense was \$ [REDACTED]

4. On August 28, 2017, the Department issued a Notice of Case Action approving the Petitioner for \$ [REDACTED] in FAP benefits for the period from August 25, 2017, through August 31, 2017, and \$ [REDACTED] in FAP benefits for the period from September 1, 2017, through September 30, 2017.
5. On the same day, the Department issued a Verification Checklist (VCL) requesting verification of Petitioner's heating expense, residential address, rent, and non-heat electrical expense due back by September 7, 2017.
6. On December 9, 2017, the Department issued a Notice of Case Action decreasing Petitioner's benefits to \$ [REDACTED] per month from January 1, 2018, through July 31, 2019, because Petitioner's excess shelter deduction amount had changed after removal of his unverified housing expense.
7. On December 14, 2017, Petitioner turned in a copy of his Michigan State Housing Development Authority (MSHDA) Housing Choice Voucher Program Adjustment Notification (Housing Notification) indicating that Petitioner's rental expense was \$ [REDACTED] per month.
8. On the same day, Petitioner turned in a copy of his Consumers Energy bill.
9. On January 11, 2018, the Department issued a Notice of Case Action increasing Petitioner's FAP benefits to \$ [REDACTED] per month after consideration of his rental expense; and indicating that Petitioner was owed a supplement of \$ [REDACTED] for the period from January 1, 2018, through January 31, 2018.
10. On January 12, 2018, Petitioner filed a verbal hearing request disputing the reduction and calculation of his FAP benefits as well as the lack of notice of imminent changes in his FAP benefit rate.

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 disputes the reduction of his benefits and the lack of notice with regard to imminent changes in his GAP benefit rate.

Clients are eligible for expedited service on their FAP application if one of the following applies to their group:

- The group has less than \$150 in month gross income and \$100 or less in liquid assets.
- They are destitute migrant or seasonal farmworkers and have \$100 or less in liquid assets.
- The group's combined gross income and liquid assets are less than its monthly rent and/or mortgage payments plus the Heat and Utility Standard, or Non-Heat Electric, Water and/or Sewer, Telephone, Cooking Fuel or Trash Removal standards.

BAM 117, (July 2014), p. 1. An expedited FAP group must complete the assistance application, an interview, and cooperate with the minimum verifications of identity with efforts made for verification of residency, income, assets, and other eligibility factors. BAM 117, pp. 1-3. Expedited service has a shorter standard of promptness and fewer verification requirements to determine FAP eligibility than are normally required. *Id.* When a FAP case is expedited, the standard of promptness requires the Department to take action within six calendar days of the date of application; benefits must be available by the seventh day. BAM 115 (July 2017), p. 17. For a regular FAP case, the standard of promptness is 29 calendar days after the date of application and benefits must be available by the 30th day. *Id.* In situations where a change has been reported by the client, the Department is required to act on the change within 10 days of becoming aware of the change. BAM 220, (July 2017), p. 7. In an expedited FAP case, verifications other than identity and actions required in conjunction with other programs are deferred. BAM 115, p. 32. Verifications of a client's verbal or written statements are required at the time of application (or later if deferred in an expedited case). BAM 130 (April 2017), p. 1. Clients are provided 10 calendar days from the date of a request to provide any requested verifications.

In this case, Petitioner's application for FAP assistance was identified as needing expedited service. Therefore, at the time of application, the Department was only required to verify his identity while making some effort to verify other eligibility factors. Any other verifications were deferred for later processing. In August, the Department properly expedited Petitioner's application and processed it using only the information provided from the application. BAM 117, p. 1.

Petitioner received \$ [REDACTED] for August 25, 2017, through August 31, 2017, and \$ [REDACTED] for September 1, 2017, through September 30, 2017. Petitioner does not dispute his income or expenses in these months. A review of the calculation of benefits show that the Department properly calculated Petitioner's benefit rate for August and September 2017. RFT 260 (October 2016), p. 1.

Upon certification of eligibility, Bridges automatically notifies the client in writing of positive and negative actions by generating a Notice of Case Action. BAM 220, p. 2. The Notice of Case Action must specify the actions taken, the reason for the action, the specific manual item which cites the legal base for action, an explanation of the right to request a hearing, and the conditions under which benefits are continued if a hearing is requested. BAM 220, pp. 2-3. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended) which is given when approving or denying an application, or increasing benefits. BAM 220, p. 3. Timely notice is given for a negative action unless policy states otherwise. BAM 220, p. 5. A timely notice is mailed at least 11 days before the intended negative action takes effect; the action is pended to provide the client a chance to react to the proposed action. *Id.* A Notice of Case Action is not required when FAP benefits vary from month to month within the benefit period due to changes anticipated when the case was certified **and** the group was notified at that time. *Id.*

The Petitioner's Notice of Case Action from August 28th states on page two of the document that the Department

approved benefits on an expedited basis only for 8/25/2017 – 09/30/2017. Because you qualified to receive Food Assistance Program (FAP) benefits right away, we postponed asking you to give us certain information

You are certified from 8/25/2017 - 07/3/2019. Even though your certification period extends beyond the expedited months approved, in order to receive benefits beyond the expedited benefit period, we need to you to provide the information requested on your Verification Checklist, sent separately. Failure to provide the required verification by the due date may result in a case reduction or closure.

The Petitioner was then provided with the VCL identifying each item that needed to be verified in addition to examples of things which could be used to verify that item. The Department sought verification of his heat expense, residential address, rent, and non-heat electrical expenses. Petitioner believed that he had turned in all necessary documents at the time of application. He admits to receiving the Notice of Case Action and the VCL shortly after his application, but made no effort to follow up with the Department until December 2017.

One of the items turned in at application which the Department has on file is Petitioner's lease agreement. The lease agreement lists Petitioner's rent as being \$ [REDACTED] per month, yet Petitioner listed his rental expense as \$ [REDACTED] per month. Petitioner believes that he provided additional documentation including his MSHDA Notice, but the Department does not have that document as being received by the Department until December 14, 2017. Likewise, Petitioner testified that he had turned in proof of his utility expenses at the time of application, but the Department lists the utility bill as

having been received again on December 14, 2017. As a result, Petitioner's FAP benefits were reduced in December 2017 because the housing expense was removed from Petitioner's FAP budget due to a failure to verify the expense. Once the proofs were received on December 14, 2017, the Department recalculated Petitioner's FAP budget and issued a third Notice of Case Action 28 days later. As discussed above, reported changes must be acted upon by the Department within 10 days of the reported change. As a result, the Department was aware that it was not timely in processing the change and issued a \$ [REDACTED] supplement in addition to Petitioner's newly calculated benefit rate of \$ [REDACTED].

A review of the budgets from December 2017 and January 2018 shows that the Department properly calculated each budget and benefit rate. RFT 260 (October 2017), pp. 3, 5. Petitioner does not dispute his income, child support expense, utility expense, or other expenses. His only concern is the verification of his housing expense. In December 2017, the Department properly removed the housing expense from Petitioner's budget as it had not yet been verified; and Petitioner received proper notice of the need for proofs via the Notice of Case Action and the VCL. BEM 554 (August 2017), p. 1; BAM 130 (April 2017). As Petitioner does not dispute anything else in his December budget, the Department properly calculated the December 2017 FAP budget as well. Finally, in January 2017, the Department issued the third and final Notice of Case Action. Petitioner agrees with all items in his budget for January 2018 including his income and expenses; a review of the budget shows that the Department properly calculated the Petitioner's FAP benefit rate.

After a review of each of the notices regarding Petitioner's FAP benefits, the Department properly and adequately informed Petitioner of what was expected of him in accordance with policy.

Therefore, 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 reduced Petitioner's FAP benefit rate in December 2017, increased his FAP benefit rate in January 2018, and issued notices to Petitioner regarding his FAP case.

DECISION AND ORDER

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



AM/

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

DHHS

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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