



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 27, 2018
MAHS Docket No.: 18-000732
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 22, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED].

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) for January 2018 and February 2018?

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 was required to submit a completed Semi-Annual Contact Report on or before December 1, 2017.
3. Petitioner submitted the Semi-Annual Contact Report on December 16, 2017 and indicated that she had moved to a new residence.
4. Petitioner did not provide any proofs with her Semi-Annual Contact Report.
5. The Department did not request any verifications from Petitioner.

6. The Department continued Petitioner's heat and utility standard but removed her housing expense from the FAP budget.
7. On January 23, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that she had been approved for FAP benefits in the amount of [REDACTED] from January 1, 2018 through January 31, 2018 and [REDACTED] in FAP benefits from February 1, 2018 through June 30, 2018.
8. On January 25, 2018, Petitioner sent an email to her assigned worker requesting a hearing to dispute 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).

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

SER

The hearing was requested to dispute the Department's action taken with respect to the FAP and SER program benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood why her application for SER benefits was denied. Petitioner further testified that she did not wish to proceed with the hearing as it relates to the SER application. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. As such, Petitioner's Request for Hearing relating to her SER request was **DISMISSED**.

Petitioner is disputing the Department's failure to budget her housing expenses which caused a decrease in her FAP benefits. The Department argued that it removed Petitioner's housing expense because she failed to verify the housing expense. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2017), p. 1.

Petitioner submitted a Semi-Annual Contact Report on December 16, 2017. At that time, Petitioner informed the Department that she had moved. Petitioner did not attach any documentation to the Semi-Annual Contact Report. One of the questions listed on the Semi-Annual Contact Report asked Petitioner if any of her housing expenses had changed. Petitioner responded that she had no change in housing expenses.

The Department testified that because Petitioner failed to provide proof of her housing expense when she reported her change in address, it removed the housing expense. However, under Department policy, verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130, p. 1. Additionally, the Department is required to Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department is required to remove the old expense until the new expense is verified. BEM 554 (August 2017), p. 14.

In this case, the Department failed to request any verifications from Petitioner relating to her housing cost. The Department continued to budget the heat and utility standard without verification but removed the housing expense because it determined the housing expense had not been verified. The Department was unable to articulate why it allowed the heat and utility standard to continue but not the housing expense.

Petitioner testified that she did not know that the Department needed any additional information from her to continue budgeting her housing expense. Petitioner testified that she maintained constant contact with her assigned worker and that her assigned worker indicated that her housing costs was not the reason for the decrease in benefits. Petitioner's assigned worker did not appear at the hearing.

The evidence at the hearing revealed that Petitioner reported a change in residency. As previously stated verifications are required when a change is reported affecting eligibility or benefit level. Department policy states that the Department is to obtain verifications when required by policy. The Department did not request any verifications from Petitioner as required. Accordingly, it is found that the Department improperly determined Petitioner's eligibility for FAP benefits for January 2018 and February 2018.

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 did not act in accordance with Department policy when it determined that Petitioner was eligible for FAP benefits in the amount of ██████ between January 1, 2018 and January 31, 2017. Additionally, 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 did not act in accordance with Department policy when it determined that Petitioner was eligible for FAP benefits in the amount of ██████ effective February 1, 2018, ongoing.

DECISION AND ORDER

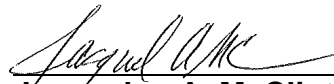
The Request for Hearing relating to SER benefits is **DISMISSED**.

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. Redetermine Petitioner's eligibility for FAP benefits for January 2018 and February 2018;
2. If Petitioner was eligible to receive supplements, issue FAP supplements Petitioner was eligible to receive but did not for January 2018 and February 2018; and
3. Notify Petitioner in writing of its decision.

JM/tm



Jacquelyn A. McClinton
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]
[REDACTED]
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[REDACTED] [REDACTED]
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