



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 25, 2018
MAHS Docket No.: 18-003257
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 22, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Dicota Ray-Clemons, Case Manager.

ISSUE

Did the Department fail to process Petitioner's reported loss of employment income when calculating her Food Assistance Program (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. Petitioner was an ongoing FAP recipient.
2. Petitioner was employed at [REDACTED] from February 13, 2015 through March 2015.
3. On October 6, 2015, the Department sent Petitioner a Verification Checklist requesting Verification of Employment from Petitioner (Exhibit B).
4. On October 19, 2015, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit case was due to close effective November 1, 2015, ongoing, for her failure to submit required verifications (Exhibit A).

5. On October 28, 2015, Petitioner contacted her worker and requested documentation to be sent to [REDACTED] to verify her loss of employment.
6. On October 28, 2015, a Verification of Employment form was sent to [REDACTED].
7. On November 11, 2015, the Verification of Employment was returned (Exhibit C).
8. Petitioner's FAP benefits were reinstated effective November 1, 2015, ongoing, and the income from [REDACTED] was removed.
9. On December 18, 2015, Petitioner submitted a request for hearing.
10. On April 12, 2018, the hearing request was first forwarded to the Michigan Administrative Hearing System and a hearing was scheduled on May 21, 2018.

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, Petitioner argued that she should receive a supplement for her FAP benefits from March 2015 through October 2015. The Department received a Verification of Employment from Petitioner's employer on November 11, 2015 verifying Petitioner's loss of employment in March 2015. The income was removed from Petitioner's FAP budget effective November 2015.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (July 2014), p. 10. If verification is required or deemed necessary, the Department must allow the household 10 days from the date the change is reported or the date of the request for verification to provide verification. BEM 505, p. 10. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported. BEM 505, p. 10.

Petitioner testified that she first reported the loss of income in March 2015 and the Department improperly budgeted the income from March 2015 through October 2015. Petitioner testified that when she first informed her worker of the loss of employment in March 2015, she was advised to have her employer submit documentation to the Department verifying the loss of employment. Petitioner testified she contacted her employer and requested that documentation be sent to the Department showing she was no longer employed. Petitioner stated she let the issue “slide” until October 2015, when she received the VCL. Petitioner testified she was again advised to contact her employer to submit documentation. Petitioner contacted her employer again and was told the Department needed to send a form for them to complete. On October 28, 2015, Petitioner contacted her worker and requested that forms be sent to the employer. On October 28, 2015, the Department sent the Verification of Employment form to Petitioner’s employer, which was returned on November 11, 2015. Petitioner stated that had the Department sent the form in March 2015 when the loss of income was first reported, the income would have been timely removed from her FAP budget.

Petitioner’s worker from 2015 testified that the first time she learned that Petitioner was no longer employed with [REDACTED] was in October 2015. The Department did not present the case comments from the time period in question to verify no conversations took place regarding the loss of employment prior to October 2015. When asked if the case comments were reviewed to ensure the loss of income was not reported in March 2015, the worker stated the case comments were not reviewed prior to the hearing.

Petitioner’s testimony that she reported her loss of employment in March 2015 was credible. Additionally, the Department failed to review or submit additional documentation, i.e. the case comments, showing Petitioner did not report the loss of income until October 2015. Therefore, it is found the Department failed to process Petitioner’s reported loss of income as of March 2015. Had the Department properly processed the reported change, Petitioner’s next allotment of benefits would have been affected. Petitioner’s next allotment of benefits would have been for April 2015.

DECISION AND ORDER

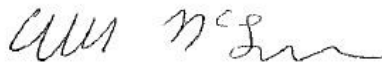
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to process Petitioner’s reported change of income in March 2015.

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 FAP eligibility for April 1, 2015 through October 31, 2015 with the exclusion of the earned income from Prudential Security;
2. If Petitioner is eligible for additional FAP benefits, issue supplements she is entitled to receive but did not for the period of April 1, 2015 through October 31, 2015; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore

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) 763-0155; 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:

MDHHS-Wayne-23-Hearings
M. Holden
D. Sweeney
BSC4-Hearing-Decisions
MAHS

Petitioner – Via First-Class Mail:

