



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 22, 2018
MAHS Docket No.: 18-004904
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 June 21, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Anthony Couls, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's reported change regarding 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. On April 8, 2018, Petitioner reported one of her group members had lost her employment (Exhibit A).
3. On April 15, 2018, Petitioner submitted notification of the loss of employment for a second time (Exhibit B).
4. On April 27, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of the loss of employment (Exhibit D).
5. On May 3, 2018, Petitioner submitted verification of the loss of employment.

6. On May 4, 2018, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefits were increasing to \$500 per month effective June 1, 2018, ongoing (Exhibit E).
7. On May 11, 2018, Petitioner submitted a request for hearing disputing 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.

In this case, Petitioner argued that the change she reported regarding the loss of employment of one of her group members should have affected her May 2018 FAP benefits. Petitioner's group member lost her employment April 4, 2018. Petitioner reported the loss of income to the Department.

Clients are required to report changes in circumstances that potentially affect eligibility or benefit amount to the Department within 10 days. BAM 105 (January 2018), pp. 11-12. The Department must act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2018), 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 and BEM 505 (October 2018), p. 11. A supplemental issuance may be necessary in some cases. BAM 220, p. 7. If necessary verification is not returned by the due date, the Department will take appropriate action based on what type of verification was requested. BAM 220, p. 7. If verification is returned late, the increase must affect the month after verification is returned. BAM 220, p. 7.

The Department presented a change report that has a submission date of April 8, 2018 submitted by Petitioner regarding the loss of employment (Exhibit A). The Department testified this document was physically submitted to the Department by Petitioner on May 11, 2018. The Department contended the document was not electronically received prior to that date. The Department presented Petitioner's Electronic Case File (ECF) which shows a change report was not submitted on April 8, 2018. The Department

testified that the first change report that was received regarding the loss of employment was on April 15, 2018 (Exhibit B). As a result of the receipt of the April 15, 2018 change report, the Department issued a VCL on April 27, 2018 requesting verification of the change. The Department received the proper verifications on May 3, 2018. The Department processed the change and Petitioner's FAP benefits were increased as of June 1, 2018. The Department testified that Petitioner was not entitled to a supplement for May 2018 because she did not timely report the change in income and verifications were not received until May 3, 2018.

Petitioner testified that she submitted the change report regarding the loss of income on April 8, 2018. Petitioner stated that she was informed by her worker that the change report was not in her ECF. Petitioner submitted the change report a second time on April 15, 2018. Petitioner submitted verification of the change report that she stated was submitted on April 8, 2018 on May 11, 2018.

Petitioner's testimony that she first submitted the change report regarding the loss of income on April 8, 2018 was credible. Although it may not be reflected as submitted in the ECF, Exhibit A has a submission date and a tracking number, verifying Petitioner's testimony. Therefore, Petitioner timely notified the Department of the change. Policy states 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. The Department conceded Petitioner timely verified the loss of income once the verifications were requested. As Petitioner reported the change on April 8, 2018, the change should affect the first allotment of benefits issued 10 days after that date. Petitioner receives her benefits on the fifth of every month. Thus, the change should have affected Petitioner's May 2018 FAP issuance. As such, the Department did not follow policy when it applied the change.

DECISION AND ORDER

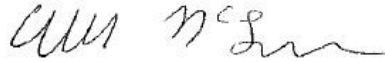
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to apply Petitioner's reported change of household income to May 2018.

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 with the loss of income for May 2018;

2. If Petitioner is entitled to additional FAP benefits, issue supplements she is entitled to receive for May 2018; 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-18-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

