



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: August 31, 2018
MAHS Docket No.: 18-006643
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 August 2, 2018, from Lansing, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Shanna Ward, Eligibility Specialist.

ISSUE

Did the Department fail to process Petitioner's reported loss of employment income when calculating her Food Assistance Program (FAP) benefits for June of 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 was an ongoing FAP recipient.
2. Petitioner was employed at [REDACTED]
3. On May 25, 2018, Petitioner reported to the Department that she was going to be losing her job on June 5, 2018.
4. On June 7, 2018, the Department sent to Petitioner a Verification Checklist requesting verifications of Petitioner's income and employment status with [REDACTED]. The verifications were due back by June 18, 2018.

5. On June 18, 2018, Petitioner returned the completed verifications showing that she had lost her employment with [REDACTED] and had income of [REDACTED] in the month of June of 2018.
6. The Department did not incorporate Petitioner's lower June of 2018 income into Petitioner's June of 2018 benefits despite being reported in May of 2018. Petitioner's lower income was only taken into consideration starting July 1, 2018, going forward.
7. On June 22, 2018, Petitioner filed a hearing request objecting to the Department's failure to apply her May 25, 2018, change report until July of 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 for June of 2018. The Department received a Verification of Employment from Petitioner on June 18, 2018. The income was removed from Petitioner's FAP budget effective July of 2018.

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 (October 2017), p. 11. 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. 11. 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 on May 25, 2018, and she contended that the Department improperly budgeted her income for June of 2018. During the hearing, the Department's witness testified that the Department improperly failed to timely process Petitioner's change report and improperly budgeted Petitioner's former income rather than the reported [REDACTED] she earned in June of 2018, causing

Petitioner to be under-issued benefits for the month. Therefore, it is found the Department failed to process Petitioner's reported loss of income. 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 June of 2018.

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 properly process Petitioner's reported change of income in May of 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 for June of 2018 with the timely reported income of [REDACTED] from [REDACTED]
2. If Petitioner is eligible for additional FAP benefits, issue supplements she is entitled to receive but did not for the period of June of 2018; and
3. Notify Petitioner of its decision in writing.

JM/dh



John Markey
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

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

██████████
████████████████████
██████████ MI ██████████