



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: August 23, 2018
MAHS Docket No.: 18-007028
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 9, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Cassandra Burton, Success Coach.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) benefits for July 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 is an ongoing FAP recipient.
2. Prior to July of 2018, Petitioner was receiving \$310.00 per month in FAP benefits.
3. On July 17, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that Petitioner's monthly FAP benefits were \$244.00, effective July 1, 2018.
4. On July 5, 2018, Petitioner filed a request for hearing challenging the reduction of her FAP benefits.

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 was an ongoing FAP recipient receiving \$310.00 per month in FAP benefits. When Petitioner was receiving the \$310.00 per month, the Department was factoring in a utility deduction when calculating her benefits. However, as of July 1, 2018, the Department stopped applying that deduction because Petitioner allegedly could not verify the expense.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

The Department failed to produce the VCL that was sent to Petitioner and could not provide any information as to its contents, including when it was sent, what verifications were requested, or when the proofs were due. Department policy states that the Department must tell the client what verification is required and to use the VCL to request information. BEM 130, p. 3. The Department failed to establish that it followed policy when requesting verifications from Petitioner. Therefore, the Department cannot use Petitioner's failure to provide that information as a basis for the denial of benefits. Thus, the Department failed to act in accordance with policy when eliminating the utility expense deduction from Petitioner's budget.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Petitioner's FAP case for Petitioner's failure to submit required verifications.

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. Determine whether Petitioner is eligible for the h/u standard deduction of \$537.00;
2. If Petitioner is not eligible for the h/u standard deductions, issue a Verification Checklist that allows Petitioner the opportunity to verify her reported utility expenses;
3. Recalculate Petitioner's FAP benefits effective July 1, 2018; and
4. Notify Petitioner in writing of its decision.
5. If Petitioner is eligible for additional FAP benefits, issue FAP supplements Petitioner was eligible to receive but did not as a result of the Department's failure to attempt to verify her reported utility expenses as of July 1, 2017, ongoing; and
6. Notify Petitioner of its decision.

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

Denise Ezell
3040 W Grand Blvd STE 5-450
Detroit, MI 48202

Wayne County (District 23), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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