



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 5, 2018
MAHS Docket No.: 18-007490
Agency No.: ██████████
Petitioner: ██████████

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 21, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Jennifer Cole, Lead Eligibility Specialist, and Jazzy Shearon, Eligibility Specialist. During the hearing, three pages of documents were offered and admitted as Exhibit A, pages 1-3.

ISSUE

Did the Department properly process Petitioner's July 9, 2018, Food Assistance Program (FAP) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████, 2018, Petitioner filed with the Department an application for FAP benefits.
2. In the application, Petitioner indicated that he had monthly earned income of ██████████ and monthly housing expenses of \$500. Petitioner also informed the Department that he paid child support.

3. On July 9, 2018, the Department searched a database that reported Petitioner did not have any child support obligations. Exhibit A, p. 3.
4. On July 13, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that the Petitioner's monthly FAP benefits were \$36.00. In calculating Petitioner's benefits, the Department did not take into account Petitioner's reported child support obligations. Exhibit A, p. 2.
5. On July 18, 2018, Petitioner filed a request for hearing challenging the Department's calculation of his FAP benefits and failure to take into account his child support obligations.

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 filed an application for FAP benefits on [REDACTED], 2018. In the application, Petitioner informed the Department that he was responsible for child support payments.¹ When the Department received that information, it ran Petitioner's name through a database that purports to be able to identify whether a person is subject to child support obligations. The results indicated that Petitioner was not subject to child support obligations.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), page 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 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, page 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, page 7.

¹ Notably, the Department did not provide the application in the hearing packet. However, both the Department witnesses and Petitioner credibly testified that Petitioner stated in the application that he had child support obligations.

The Department witnesses testified that the Department did not ask for verification of child support obligations from Petitioner upon discovering the discrepancy between what Petitioner reported in the application and what the database indicated. 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 it determined that Petitioner was not eligible for the child support deduction. Therefore, the Department cannot simply declare as untrue Petitioner's assertions regarding his child support obligations without allowing him the chance to verify the expenses. The reason for that policy is made clear in this case given that the database the Department relied upon was subsequently proven to be wrong. At the hearing, the Department conceded that Petitioner, in fact, was subject to the child support obligations he reported on the application. The Department failed to act in accordance with policy by failing to allow Petitioner the opportunity to verify the information reported in his application.

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 determined Petitioner's FAP benefits without allowing Petitioner to verify his child support obligations.

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. Issue a Verification Checklist that allows Petitioner the opportunity to verify his reported child support expenses;
2. Recalculate Petitioner's FAP benefits effective July 9, 2018;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits he may thereafter be due; and
4. Issue written notice of any case action(s) in accordance with Department policy.



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

Deborah Little
5131 Grand River Ave.
Detroit, MI 48208

Wayne County (District 49), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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