



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.: 18-007627
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 23, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Candice Bennis, Hearings Facilitator. During the hearing, two three-page documents were offered and admitted as Exhibit A, pp. 1-3 and Exhibit B, pp. 1-3.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) after receiving Petitioner's change report?

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 benefits recipient in a group of 4.
2. On June 1, 2018, Petitioner filed a Change Report with the Department informing the Department that she was recently married to ██████████. Exhibit A.
3. On July 5, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her benefits were reduced to \$267.00 per month based on increased household earned income, increased unearned income, and changed

child support expenses. The Notice of Case Action indicated that Petitioner's group size had increased to 5. Exhibit B.

4. On July 16, 2018, Petitioner filed a request for hearing challenging the Department's calculation 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 filed a Change Report on June 1, 2018. The Change Report informed the Department that Petitioner married an individual by the name of [REDACTED]. Upon receiving the Change Report, the Department included [REDACTED] into Petitioner's group, researched his income, and recalculated Petitioner's FAP benefits taking into account what the Department discovered. By including [REDACTED] information, the Department reduced Petitioner's monthly FAP benefits to \$267.00.

Petitioner's position is that [REDACTED] does not live at the home with Petitioner and that the Department should not have included him into her group. Furthermore, Petitioner objected to the income and child support expenses that were included for [REDACTED], as she believes they are different than what the Department concluded.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), page 1. The level of FAP benefits a group receives is impacted by the number of people in the group. RFT 206 (October 2017), pp. 1-51. 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.

The Department witnesses testified that the Department did not ask for verification of any of the information that the Department relied upon when making the reduction in Petitioner's monthly FAP benefits. 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's husband was a member of the household. Furthermore, even if the Department properly concluded that [REDACTED] was a member of the household, the Department failed to establish that it followed policy when it determined [REDACTED] earned income, unearned income, and child support obligations. Thus, the Department failed to act in accordance with policy when it reduced Petitioner's FAP benefits.

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 after receiving the June 1, 2018, Change Report.

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 whether [REDACTED] is a member of the household or not;
2. If [REDACTED] is determined to be a member of the household, issue a Verification Checklist that allows Petitioner the opportunity to verify [REDACTED] child support expenses, earned income, and unearned income;
3. Recalculate Petitioner's FAP benefits effective July 1, 2018;
4. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
5. 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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