



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 7, 2018
MAHS Docket No.: 18-008023
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 September 5, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Gina Brazil, Success Coach for Pathways to Potential. During the hearing, 36 pages of documents were offered and admitted as Exhibit A, pp. 1-36.

ISSUE

Did the Department properly deny Petitioner's ██████████, 2018, application for Food Assistance Program (FAP) benefits for allegedly failing to turn in requested verifications?

Did the Department properly process Petitioner's subsequent ██████████, 2018 application for 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. On ██████████, 2018, Petitioner filed with the Department an application for FAP benefits.
2. On May 11, 2018, the Department issued to Petitioner a Verification Checklist requesting verification of a checking account. Specifically, the Department

requested "Current statement from bank or financial institution DHS 20 Verification of Assets." Petitioner was required to respond by May 21, 2018. Exhibit A, pp. 27-28.

3. Prior to the deadline, Petitioner submitted to the Department verification of the only checking account that she used. The Department did not request any further checking account information from Petitioner.
4. On June 6, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application was denied for failing to provide verification of her checking account. Exhibit A, pp. 25-26.
5. On [REDACTED], 2018, Petitioner filed with the Department another application for FAP benefits. Exhibit A, pp. 29-35.
6. After Petitioner submitted her second FAP application on [REDACTED], 2018, the Department informed Petitioner that the first application was denied because Petitioner failed to provide verifications with respect to a checking account Petitioner had closed many years prior. The day after receiving that information, Petitioner submitted to the Department a statement from the bank certifying that Petitioner had closed that account.
7. On June 29, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her [REDACTED], 2018, application for FAP benefits had been approved. Petitioner was informed that she would receive a prorated amount of \$43 for June of 2018 and \$76 per month starting July of 2018. Exhibit A, pp. 5-6.
8. On August 3, 2018, Petitioner submitted a request for hearing objecting to the Department's denial of her [REDACTED], 2018, FAP application and her level of benefits granted pursuant to the [REDACTED], 2018, FAP application.

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.

Petitioner objects to two actions taken by the Department: (1) the denial of the [REDACTED], 2018, FAP application and (2) the Department's FAP eligibility calculation

pursuant to the [REDACTED] 2018, FAP application. After reviewing the record, the Department's denial of the [REDACTED], 2018, FAP application is reversed, but the Department's calculation of benefits pursuant to the [REDACTED], 2018, FAP application is affirmed. The reasons for each decision are as follows.

DENIAL OF [REDACTED], 2018 FAP APPLICATION

Petitioner applied for FAP benefits on [REDACTED] 2018. Shortly after applying, the Department issued to Petitioner a Verification Checklist requiring Petitioner to provide verifications of her checking account by May 21, 2018. Importantly, the Verification Checklist requesting the information did not specify any particular financial institution. Petitioner was informed that her application could be denied if she failed to comply with the request for information.

Prior to the May 21, 2018, deadline, Petitioner provided to the Department the requested verification for her only open checking account. Her submission to the Department, however, was deemed insufficient by Petitioner's case worker because the Department had in Petitioner's file indication that Petitioner had another checking account. Because Petitioner did not provide that information in her timely verifications submission, the Department denied Petitioner's FAP application for failing to provide required verifications.

The asset limit for eligibility for FAP is \$5,000, and that includes checking accounts. BEM 400 (May 2018), p. 1, 5. 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. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Per BAM 130, the Department only sends a negative action notice when the client indicates a refusal to provide the verification or the time period has elapsed and the client has not made a reasonable effort to provide the requested verifications. In this case, Petitioner never indicated a refusal to provide the verifications requested. In fact, Petitioner technically provided exactly what was asked for on the Verification Checklist. By complying with the actual request, Petitioner most certainly at least made a reasonable effort to provide what the Department requested. Thus, the Department was precluded from sending the June 6, 2018, negative action notice. Because Petitioner timely responded to the Verification Checklist with the information requested and the Department failed to specify what verification was specifically required, the

Department did not act in accordance with Department policy when it denied the [REDACTED], 2018, application.

PROCESSING OF [REDACTED], 2018 FAP APPLICATION

After Petitioner's [REDACTED], 2018, FAP application was denied on June 6, 2018, Petitioner filed another application for FAP benefits on [REDACTED], 2018. During the process of applying for FAP benefits for the second time, Petitioner was informed that the Department was aware of another checking account in Petitioner's name at a particular financial institution other than the one she previously verified, and that her failure to verify that account information was the reason her previous application was denied. This was the first time Petitioner was made aware of the basis for the denial of her previous application. The day after receiving that information, Petitioner went to the bank and received a statement showing that the checking account at issue had been closed many years before. After providing that information to the Department, Petitioner's [REDACTED], 2018 FAP application was approved for \$76 per month. Petitioner now objects to her level of FAP benefits.

The Department calculated for Petitioner's one-member FAP group a monthly FAP benefit amount based on monthly earned income of [REDACTED], housing costs of \$74.84, a standard deduction of \$160, and the heat/utility (h/u) standard of \$537. Petitioner does not object to any of the preceding values.

All of Petitioner's income is eligible for the earned income deduction of 20%, thus reducing Petitioner's household's countable income to [REDACTED]. The standard deduction of \$160 was then taken out, resulting in adjusted gross income of [REDACTED]. Petitioner is not eligible for a deduction for child care, medical, or child support expenses.

However, Petitioner is eligible for the excess shelter deduction. Petitioner had \$74.84 in housing costs and was eligible for the h/u standard of \$537, which brought Petitioner's total shelter amount to \$612. The excess shelter deduction is calculated by subtracting from the \$612 one half of the adjusted gross income, which is [REDACTED]. The remaining amount is the excess shelter deduction. In this case, the remaining amount is [REDACTED]. Petitioner's net income of [REDACTED] is calculated by subtracting the excess shelter amount ([REDACTED]) from the adjusted gross income ([REDACTED]).

The Food Assistant Issuance Table shows \$76 in benefits for [REDACTED] net income for her household. RFT 260 (October 2017), p. 6. This is the amount determined by the Department and is correct. Accordingly, the Department acted in accordance with Department policy when it determined Petitioner's FAP benefits pursuant to Petitioner's June 14, 2018, FAP application.

Petitioner objects to the Department's failure to consider her dependent care expenses for child care for her daughter, which Petitioner contends should result in the maximum deduction from her gross income of \$200 per month. The Department did not include dependent care expenses into the equation because Petitioner reported on her

██████████, 2018, FAP application that she did not have any dependent care expenses. Exhibit A, p. 34. The Department did not err in failing to consider the alleged dependent care expenses when Petitioner reported to the Department on the application that she did not have any.

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: (1) failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's ██████████, 2018, application for FAP benefits; and (2) satisfied its burden of showing that it acted in accordance with Department policy when it determined Petitioner's monthly FAP eligibility based on Petitioner's ██████████, 2018 FAP application.

Accordingly, the Department's June 6, 2018 Notice of Case Action is **REVERSED**, and the Department's June 29, 2018 Notice of Case Act is **AFFIRMED**.

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. Reregister and reprocess Petitioner's ██████████ 2018 FAP application;
2. If Petitioner is eligible for FAP benefits, issue supplements she was entitled to receive but did not as a result of the application denial;
3. Notify Petitioner of its FAP 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

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

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