



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: September 14, 2018
MAHS Docket No.: 18-008316
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 September 13, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Heather Oleszkowicz, Eligibility Specialist, and Rachel Smith, Assistance Payments Supervisor. During the hearing, six documents were offered by the Department and admitted as Exhibit A through Exhibit F, and one document was offered by Petitioner and admitted as Exhibit 1.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case, effective September 1, 2018, for having excessive net income?

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. On May 10, 2018, Petitioner reported to the Department that her minor daughter had returned to the household and would be living there until August or September, at which point the daughter would return to college. Exhibit A.

3. On May 14, 2018, the Department issued to Petitioner a Verification of Employment form for Petitioner's daughter to provide to [REDACTED] in order to verify the daughter's employment and income at [REDACTED]. Exhibit B, pp. 1-2.
4. On May 21, 2018, [REDACTED] returned the completed Verification of Employment form to the Department. Exhibit B, pp. 1-2.
5. Based on the returned Verification of Employment form and the Work Number report run by the Department, the Department did not budget any of the daughter's wages with [REDACTED] into the group's income because the income stopped at the end of May of 2018. Exhibit B, pp. 1-2; Exhibit C, pp. 1-3.
6. On or about May 22, 2018, the Department received a paycheck stub showing Petitioner's daughter worked part-time at [REDACTED], was paid twice per month, and had earned [REDACTED] during the pay period covered by the paycheck stub. Exhibit D.
7. On July 30, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case would be closed effective September 1, 2018, for having excessive net income. Exhibit E, pp. 1-2.
8. On August 6, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP case. Included with Petitioner's hearing request was a change report showing that her household income was changing going forward as a result of her daughter no longer living at the home, effective August 18, 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's FAP case was closed as a result of the Department's conclusion that Petitioner's household income was over the net income limit. The Department, in coming to that conclusion, included the income of Petitioner's daughter. Petitioner argued that her FAP case should not have closed, effective

September 1, 2018, because the information the Department relied upon was incorrect as Petitioner had told the Department that Petitioner's daughter was no longer living with her effective August 18, 2018. Petitioner believes it was erroneous to budget the income of her daughter when determining Petitioner's eligibility for FAP benefits, as the daughter was no longer living in the household.

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within 10 days after the change report. The effective month is the first full month that begins after the negative action effective date. BEM 505 (October 2017) p. 12. 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, 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 first reported her daughter moving into the home on May 10, 2018. According to BEM 505, the Department was required to take action and issue notice to Petitioner within 10 days after that report. Instead, the Department waited until July 30, 2018, to implement the change. Accordingly, the Department violated policy when processing that reported change.

Petitioner also reported on May 10, 2018, that her daughter was probably not going to be living in the home come late August or early September of 2018. That put the Department on notice that the income would not continue at least until after September of 2018, and if it did continue into September of 2018, it would only be for a partial month. The Department's first action on the May 10, 2018, report was to close Petitioner's FAP case effective September 1, 2018, based on allegedly having excess net income. However, the income data relied upon was known by the Department to be inaccurate and incomplete. Rather than sending a Verification Checklist to figure out exactly what Petitioner's household and income situation was, the Department closed Petitioner's FAP case based on faulty information. Along with Petitioner's hearing request in this matter, Petitioner provided to the Department another statement that her daughter moved out of her house effective August 18, 2018. The Department, as of the date of hearing, did nothing to either verify or implement the reported change in income and household makeup.

The Department failed to timely process Petitioner's change reports and improperly budgeted Petitioner's daughter's income when calculating Petitioner's FAP benefits. Therefore, it is found the Department did not follow policy when closing Petitioner's FAP case.

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 closed Petitioner's FAP case, effective September 1, 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. Reinstate Petitioner's FAP case for September 2018 ongoing;
2. Process Petitioner's May 10, 2018 and August 6, 2018 change reports with respect to Petitioner's daughter's income and household member status;
3. If Petitioner is eligible for additional FAP benefits, issue supplements she is entitled to receive but did not for the period of September 2018 ongoing; and
4. 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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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