



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 26, 2018
MAHS Docket No.: 18-008437
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 20, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 16-page packet of documents was offered and admitted as Exhibit A, pp. 1-16.

ISSUE

Did the Department properly process a New Hire Report concerning a member of Petitioner's Food Assistance Program (FAP) group and thereafter properly redetermine the group's FAP benefits level?

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 with a FAP group size of two.
2. Sometime in August of 2018, the Department allegedly received a New Hire Report informing the Department that a member of Petitioner's FAP group had recently been hired at Nemo Health LLC. Exhibit A, p. 13.
3. On August 16, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her monthly FAP benefits were being reduced to \$15,

effective September 1, 2018, as a result of an increase in net earned income and a change to the shelter deduction. The budget provided in the Notice of Case Action included a line item claiming that Petitioner's household had [REDACTED] in monthly earned income. The Department also presented an FAP Net Income Results worksheet. Notably, there was no Excess Shelter Deduction worksheet provided and no documentation supporting the Department's conclusion that the monthly earned income was at or near [REDACTED]. Exhibit A, pp. 6-7, 9-10.

4. On August 21, 2018, Petitioner filed with the Department a request for hearing objecting to the Department's processing of the New Hire Report and reduction of her monthly 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, the Department, in August 2018, allegedly received a New Hire Report concerning a member of Petitioner's FAP group. The Department then sent a Notice of Case Action informing Petitioner that her monthly FAP benefits were being reduced to \$15, effective September 1, 2018. The Notice of Case Action informed Petitioner that the reduction in her monthly benefits was caused by an increase in her net earned income and a change to the shelter deduction.

Petitioner objected to the Department's actions, prompting the hearing that took place on September 20, 2018. At hearing, the Department bears the burden of proving that it followed Department policy and law when taking the action it took. Generally, to meet that burden, the Department must, at the very least, present the documents that form the basis of its decision and testimony to explain what those documents mean.

In this case, the Department witness acknowledged that the evidence presented by the Department was insufficient to carry its burden of proof. There was no evidence to substantiate the Department's conclusion that Petitioner's group had earned monthly income of [REDACTED], or any other amount for that matter. Likewise, the Department did not provide the inputs for the shelter deduction calculation for Petitioner's FAP budget either before or after the reduction. As the challenged reduction was premised on an

increase in earned income and change to the shelter deduction, the Department was required to provide support for its conclusions on each of those matters in order to meet its burden of proof. For income, there was no support whatsoever. For the shelter deduction, the Department did not provide the information necessary to even determine what caused the calculation to change.

Based on the record presented, the Department failed to meet its burden of proving that it acted in accordance with Department policy when it processed the alleged New Hire Report and recalculated Petitioner's monthly 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 alleged August 2018 New Hire 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. Reprocess the alleged August of 2018 New Hire Report in order to come to conclusion regarding any changes to Petitioner's FAP group's monthly earned income;
2. Follow Department policy regarding verification of eligibility related issues, including income and relevant expenses, that are unclear or contested;
3. Recalculate Petitioner's FAP benefits effective September 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

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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